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HEARING  
SENATE RULES COMMITTEE  
STATE OF CALIFORNIA  
*Legislature*



STATE CAPITOL  
ROOM 113  
SACRAMENTO, CALIFORNIA

WEDNESDAY, MARCH 18, 1992  
2:00 P.M.

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SENATE RULES COMMITTEE

STATE OF CALIFORNIA

HEARING

STATE CAPITOL

ROOM 113

SACRAMENTO, CALIFORNIA

WEDNESDAY, MARCH 18, 1992

2:00 P.M.

Reported by:

Evelyn J. Mizak  
Shorthand Reporter





APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chairman

SENATOR ROBERT BEVERLY

SENATOR NICHOLAS PETRIS

SENATOR HENRY MELLO

MEMBERS ABSENT

SENATOR WILLIAM CRAVEN, Vice Chairman

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

RUSSELL S. GOULD, Secretary  
Health and Welfare Agency

MOLLY J. COYE, M.D., Director  
Health Services

DOUGLAS J. HITCHCOCK, Executive Vice President  
California Association of Hospitals and Health Systems

JOHN QUIMBY, Legislative Advocate  
County of San Bernardino

BILL GARCIA, State Advisor  
American G.I. Forum

SHERRIE GOLDEN, Legislative Advocate  
Californai State Employees Association

FRED SHANBAUR, Commissioner  
California Medical Assistance Commission

SENATOR DAN MCCORQUODALE

SENATOR BILL GREENE





APPEARANCES (CONTINUED)

1 SENATOR LEROY GREENE

2 JAMES LAKE, Ph.D., Professor  
3 Molecular Biology  
4 U.C.L.A.

5 DAN HIRSCH, President  
6 Committee to Bridge the Gap

7 DANA GLUCKSTEIN, President  
8 Americans for a Safe Future

9 JAMES S. ADAMS  
10 Redwood Alliance

11 SHERRY LEE MEDDICK, Coordinator  
12 Radwaste Campaign  
13 Greenpeace

14 LIBERTY GODSHALL  
15 Americans for a Safe Future

16 MARY RAFTERY, Policy Analyst  
17 California Public in Trust Research Group (CALPIRG)

18 WARD YOUNG, Environmental Educator  
19 Bay Area Nuclear Waste Coalition

20 MARY BETH BRANGAN  
21 Nuclear Democracy Project

22 PHILIP M. KLASKY  
23 Bay Area Nuclear Waste Coalition

24 DON EICHELBERGER  
25 Abalone Alliance

26 JONATHAN SANCHEZ, President  
27 California Hispanic Publishers Association

28 CHARLES CAREY, Vice President  
California Association of Food and Drug Investigators

WILLIAM M. PRUITT, Member  
Youthful Offender Parole Board





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## P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

SENATOR PETRIS: Dr. William Mayer, Director of the Department of Mental Health, has been put over for hearing until next week, Wednesday, March 25th.

We have had requests that we move to a larger room. Unfortunately, all the larger rooms are occupied so that is impossible.

[Thereupon the Rules Committee acted upon legislative agenda items.]

CHAIRMAN ROBERTI: Mr. Russell Gould, Secretary of Health and Welfare, was heard three weeks ago. The Rules Committee heard a great deal of testimony relative to Community Care Licensing. Mr. Gould responded to the Rules Committee in writing, and we're not going to take additional testimony on this issue in the Rules Committee today. Mr. John Healy, however, the acting Director of the Department of Social Services, is here today and is available to meet with and speak to anyone who is here regarding Community Care Licensing. Room 115, which is next to the hearing room, is available for this purpose.

We also took some testimony with regard to Ward Valley, and we'll take additional testimony on that matter today. For this, we will ask Dr. Coye to come forward with Mr. Gould since it affects both appointments.

So with that, we will take up Russell Gould,





1 Secretary of Health and Welfare Agency, and then when we get  
2 into Ward Valley, we will take up Dr. Coye as well.

3 Now, if I'm not mistaken, we had some people in  
4 addition who wanted to testify on this matter, and in addition  
5 we had some questions. We will do all the people who want to  
6 testify here. We'll start with those who may be here in  
7 support.

8 If you're on Ward Valley, however, why don't you wait  
9 until we have a chance to hear both Mr. Gould and Dr. Coye.

10 Are there witnesses here in support?

11 MR. HITCHCOCK: Mr. Chairman and Senators, my name is  
12 Doug Hitchcock. I'm Executive Vice President of the California  
13 Association of Hospitals and Health Systems.

14 We've previously communicated to the Committee in  
15 writing our support for the confirmation of Mr. Gould for this  
16 position and just wanted to reiterate our support for Mr. Gould  
17 today.

18 CHAIRMAN ROBERTI: Thank you very much.

19 Is there anyone else? Please come forward.

20 MR. QUIMBY: Mr. Chairman, Members of the Committee,  
21 John Quimby, representing the County of San Bernardino.

22 I've been asked by the Board of Supervisors to appear  
23 and indicate to you the Board's support by resolution of  
24 Mr. Gould's appointment.

25 As a personal note, we worked closely with him when  
26 he was with the Department of Finance, and the personal side is,  
27 I remember Russ Gould when he was a deputy sergeant-at-arms when  
28



1 I was a Member of the Assembly then. Then he worked his way up  
2 in the right way.

3 CHAIRMAN ROBERTI: It's in the resume here.

4 MR. QUIMBY: Is it? I didn't know whether you knew  
5 that.

6 But anyway, we are -- my Board wants you to know that  
7 we ask you to vote for his confirmation.

8 CHAIRMAN ROBERTI: Thank you, Mr. Quimby.

9 Someone else, please. Please come forward.

10 MR. GARCIA: Mr. Chairman, Members of the Committee,  
11 four organizations -- the American G.I. Forum; LULAC, the League  
12 of United Latin American Citizens; the RNHA, the Republican  
13 National Hispanic Assembly; and ULPAA, the United Latino  
14 Political Action Association -- have asked me, and my name is  
15 Bill Garcia, and I'm the state advisor for the G.I. Forum, to  
16 come and reiterate our position of a letter that we send in  
17 support of Mr. Gould. And we're here today to ask that you vote  
18 affirmatively in his confirmation.

19 Thank you.

20 CHAIRMAN ROBERTI: Thank you very much.

21 Next.

22 MS. GOLDEN: Yes, Mr. Chairman and Members. For the  
23 record, I'm Sherrie Golden, representing the California State  
24 Employees Association.

25 I, too, would like to register CSEA's support for  
26 Mr. Gould and ask for the approval of his confirmation.

27 CHAIRMAN ROBERTI: Thank you.  
28





1 MR. SHANBAUR: Fred Shanbaur. I'm a Commissioner  
2 with the California Medical Assistance Commission, and I want to  
3 give my support to Dr. Molly Coye and Russ Gould. I have worked  
4 with both of them, and I find it quite interesting. They are  
5 both dedicated people.

6 Thank you.

7 CHAIRMAN ROBERTI: Thank you.

8 SENATOR MCCORQUODALE: Senators, I think this is the  
9 first time that there's been an Administration appointee that  
10 I've come to give support to since I've been in the Senate.

11 But if you'll recall, a year ago or a little better,  
12 this body appointed me and several other Senators, with me being  
13 the lead person, to deal with the issue of realignment. So, I  
14 had the first opportunity to work with Mr. Gould at that point  
15 and found him to be very adept and good at dealing with the  
16 issues and bringing to focus the issues that we had to deal with  
17 through that process.

18 Since then, after we were successful in doing that,  
19 I've dealt with him on a number of occasions in the Department.  
20 I chair the Committee on Developmental Disabilities, and I found  
21 that not only in his own effort is he sensitive to the problems  
22 of individual -- the developmentally disabled, but that he's  
23 been willing to also deal with the much broader range of  
24 problems, including the people who are appointed to deal with  
25 concerns within the Agency.

26 One of the problems that I understand that's been  
27 raised about the problems related to, in some cases, licensing,  
28



1 with problems related to the amount that we pay to people who  
2 operate residential homes, are all serious problems; all issues  
3 that we have to deal with. But I found him willing as we worked  
4 with it in the narrower sense of the developmentally disabled  
5 that he's willing to do that, that he has been very open to  
6 discussions and meetings, and really spending a tremendous  
7 amount of time.

8  
9 My experience with agency secretaries in the past has  
10 been that if you call and want them to come to your office and  
11 discuss issues with you, they'll show up, they'll stay for a few  
12 minutes, and then they're gone. And you're doing well if you  
13 get somebody assigned out of that process to meet with you.

14 But Mr. Gould has been willing to spend a tremendous  
15 amount of time working on the individual, specific problems, and  
16 trying to get a resolution, cut through all the problems that  
17 often go way down through a department or agency, to deal with  
18 the issues.

19 So, I'm here today to give my support to Mr. Gould.  
20 I think that he's taken a very complex and difficult problem,  
21 difficult agency to deal with, with a lot of problems, and I  
22 think he's set out on a course to deal with them. While he may  
23 not have dealt with all of them as fast as some people may feel  
24 is necessary, I'm convinced that he will. That he will stay on  
25 a course to deal with these issues, and that many of the  
26 complaints that you would have heard five years ago, ten years  
27 ago, all through the time in this Agency, well, at least the  
28 issues will be addressed. That if there are parties on both





1 sides who want to resolve the issues, who are willing to give  
2 the time and effort, that they will be dealt with, will be  
3 addressed. And I think that we'll see some significant changes  
4 in this Agency under his leadership.

5 So, I'm here to give you my indication of support and  
6 urge that you confirm him as Secretary of Health and Human  
7 Services.

8 CHAIRMAN ROBERTI: Thank you, Senator.

9 Is there anyone else? Is there anyone in opposition?

10 SENATOR BILL GREENE: Mr. Chair and Members, I'm very  
11 much in opposition. My experience with Mr. Gould is just the  
12 opposite of Senator McCorquodale's, and maybe there's a reason  
13 for that; I don't know.

14 Mr. Gould, number one, has no background, no  
15 qualifications in this area.

16 I'm not saying he's a bad person, though. He should  
17 be appointed to some other position. He doesn't have the  
18 sensitivity. He doesn't understand the area.

19 He wouldn't have to turn on the water and bring in  
20 all these people if he was what people say he is. The Governor  
21 wouldn't have to call you, Mr. Chairman, if he is what he says  
22 he is. So, it's obvious that something is up.

23 Let me tell you what. I was -- because of the  
24 problems brought to my attention, as well as Senator Watson, as  
25 well as Senator Leroy Greene, about discrimination in his  
26 Department, I was calling him. I called him last year to ask  
27 him -- to report to him, to ask him would he look into it,  
28



1 offering to get all the information, all the evidence to him.

2 This man, I will say he was honest. He told me no.  
3 He told me straight-out no. I will say he was honest, and he  
4 was straightforward. I will give him credit for that.  
5

6 But I'm a Member of the State Senate. I mean, if I  
7 can't bring information to his attention, what can a citizen do?  
8 I mean, my -- my experience with him is just the opposite of  
9 Senator McCorquodale.

10 Now maybe, maybe it's because I'm black, or  
11 something like that. And you know I don't -- I don't rely on  
12 that. You people know that.

13 But this man immediately didn't stammer, he didn't  
14 stutter, he didn't hesitate. He told me no.

15 Now, as far as I'm concerned, a person like that is  
16 not -- doesn't have the sensitivity to head that Agency. And I  
17 have no knock on him as a person. I'm sure he's everything  
18 people said, but that's the wrong job for him.

19 I was bringing a very important, a very sensitive  
20 problem to his attention, a problem to his attention of where  
21 the person who heads Licensing is systematically putting black  
22 businesses out of business. While we are being forced to take  
23 black youth, either return them to jail, or put them out in the  
24 streets, and gentlemen, you know the problem that we have.

25 I live in the midst of this. Mr. Gould doesn't live  
26 in the midst of this. I have to deal with this everyday. And  
27 here I'm -- I'm trying to bring to his attention something that  
28 not only is injurious to our youth, but it's injurious to people





1 trying to make a living in it. This man told me no.

2 I said, "Can I -- can I bring it? Can we give you  
3 the paperwork?" You know, it's a selfish argument. He said no.  
4 He wasn't interested. He didn't even give me an opportunity to  
5 -- I mean, I came unglued when -- after he said no.

6 But this man just automatically and immediately  
7 turned me down. And I'm a Member. I'm sitting on top of the  
8 problem. He knows the area that I represent. He knows the  
9 make-up of that area. He knows the youth that they're dealing  
10 with come from my area. And this man told me no.

11 And we're going to make him the Director of the  
12 Health and Welfare Agency? Well, fine. I would have no problem  
13 with that if you move Community Care Licensing out from under  
14 that Agency.

15 I mean, so, what I'm saying is that that position  
16 deals with too many sensitive things. We're in trouble now,  
17 gentlemen. We're in trouble now. Our laws are not being  
18 followed. That Agency is not carrying out the law, even half,  
19 as you, or I, or the most conservative Members of this house  
20 ever intended.

21 I called to bring it to the attention of the man  
22 who's going to be the Director. He just automatically tells me  
23 no. He knew what it was about. He was sitting in Senator  
24 Watson's office when he said that.

25 Gentlemen, as I said, I have nothing against him  
26 personally. And I have no knock on him personally.

27 I just say this is the wrong job for him. He does  
28



1 not have the sensitivity.

2 Maybe he responds to Dan McCorquodale. He does not  
3 respond to Diane Watson. He does not respond to Leroy Greene or  
4 to Bill Greene.

5 CHAIRMAN ROBERTI: Not wanting to diminish your  
6 testimony, which is very important to me, Senator, but Senator  
7 Watson indicated she was in support.

8 SENATOR BILL GREENE: Of him?

9 CHAIRMAN ROBERTI: Yes.

10 SENATOR BILL GREENE: No, no, no, no, no, no, no.  
11 No, no, no, no, no, no, no. No, no, no, no, Mr. President.

12 Have the Sergeant go and bring her down here right  
13 now.

14 CHAIRMAN ROBERTI: She's out of town.

15 SENATOR BILL GREENE: No, no. That's not true.

16 CHAIRMAN ROBERTI: I actually called to ask.

17 SENATOR BILL GREENE: That's no true. That is not  
18 true.

19 The only way I would believe that is, she would have  
20 to say that herself. I cannot believe that she would be that  
21 kind of turncoat.

22 You see, I -- you see, we still got a hall full of  
23 people to testify in this matter. You say you have a lot of  
24 people.

25 I mean, I can fill this Capitol with people that will  
26 tell you about that Licensing bureau, about that Licensing  
27 agency.  
28





1           Once again, now, Mr. Gould himself did not do it.  
2 Mr. Gould wasn't there. I grant you that.

3           But I called him to tell him about the problem, to  
4 ask him to look into it. He knows the nature of the problem.  
5 And he tells me no. And I take an oath of office.

6           What is going to happen with one of my constituents?  
7 What would happen with one of your constituents? He'd probably  
8 tell them to go to hell.

9           Look, we've got professionals. We've got judges.  
10 We've got probation people. We've got doctors. We've got  
11 lawyers that will testify to all of the information that we have  
12 put before you. There's a doctor here right now, Dr. Lippman,  
13 that will testify this is not something that I just drummed up.

14           My staff and I have spent months digging into this.  
15 Number one, there's discrimination in the Licensing agency.  
16 Fine. If he doesn't have guts enough to take care of that,  
17 fine; okay. That was brought to their attention. All right?  
18 Fine.

19           This man -- this man does not have the sensitivity.  
20 He doesn't have the depth of understanding. He definitely  
21 doesn't have good public relations with Members of the  
22 Legislature, at least not this one.

23           I mean, I would have never done that. I would have  
24 -- I told him in my office, I said, "Sir, I mean, you could have  
25 faked it a little bit. You didn't just have to come out and say  
26 no."

27           That says to me he didn't care. He really didn't  
28



1 care. He just flat-out right -- now, as I said now, I give him  
2 credit for being honest. I'll give him credit for being  
3 straightforward. I'll give him credit for that.  
4

5 But this man -- Members, I appeal to you. Ask the  
6 Governor to appoint him to something else. I'm not opposed to  
7 him. This is the wrong job for him. Ask the Governor. He has  
8 no background in this area. He has no training. He has no  
9 prior knowledge in this area.

10 The man -- he didn't even work in this area when he  
11 was in the Department of Finance. The man has no personal  
12 acquaintance with this. He's the wrong person to appoint to  
13 this position, and I appeal to you to get -- Mr. Pro Tem, you  
14 get together with the Governor and say -- see if you can't  
15 appointment him to something else; I'll support that.

16 CHAIRMAN ROBERTI: Thank you, Senator.

17 Any questions?

18 Senator Leroy Greene.

19 SENATOR LEROY GREENE: Just, Senator, to report  
20 briefly that it's my understanding that Diane does support the  
21 appointment. And I've had a meeting or two with the proposed  
22 Director, and I don't have any argument with the Agency at this  
23 point in time.

24 CHAIRMAN ROBERTI: Thank you, Senator.

25 SENATOR BILL GREENE: The power of the Governor.

26 CHAIRMAN ROBERTI: Pardon?

27 SENATOR BILL GREENE: The power of the Governor. He  
28 called you, and you called him, and now this is all just fine.





1                   SENATOR LEROY GREENE: If this represents the power  
2 of the Governor, I request that I be delivered my share.

3                   Thank you.

4                                   [Laughter.]

5                   CHAIRMAN ROBERTI: Is there any other opposition?

6                   Are there people here to testify in regards to the  
7 Ward Valley situation? Yes, come up one by one, the front row  
8 first.

9                   Dr. Lake, I understand Dr. Lake has a flight to  
10 catch. We'll let Dr. Lake come first.

11                   And Dr. Coye, if you would like to come up.  
12 Sergeant, get Dr. Coye a chair.

13                   DR. LAKE: First, Senators, let me say I'm -- my name  
14 is Jim Lake. I'm a professor of molecular biology at UCLA. I'm  
15 also a Fellow of the American Association for the Advancement of  
16 Science. I'm also a Fellow of Churchill College in Cambridge.

17                   The reason I -- then let me thank Senator Petris for  
18 the opportunity to be here, the invitation, and Senator Roberti,  
19 and the rest of the Senate Rules Committee for the permission  
20 and making it possible for me to testify.

21                   I thought it would be helpful today for you to hear  
22 from a person involved in molecular biology research and medical  
23 research about the need for the Ward Valley nuclear dump,  
24 because I'm opposed to the dump. And the nuclear industry has  
25 been representing that the molecular biology community needs  
26 this dump in the interest of doing their research.

27                   I am here because I'm tired of the nuclear industry  
28



1 hiding behind the lab jackets of molecular biologists and the  
2 medical community.

3           Molecular biology doesn't need this dump. There are  
4 now new breakthroughs that Mr. Gould has an obligation to  
5 investigate, and I'd like to tell you a little bit about them  
6 and take a few minutes to tell you more or less what my daily  
7 life is, and what the research part of it is that involves  
8 working with -- with radionucleotides [sic].

9           Typically, you know, there's been a molecular -- a  
10 revolution in molecular biology, and that involves sequencing  
11 DNA. Now, it sounds -- you've heard of on-site storage, and  
12 these sorts of things. On-site storage for a molecular  
13 biologist means having a refrigerator in the lab. It means  
14 having some -- a container which is about the size of a shoe  
15 box. So, I want to get across to you that we use very small  
16 amounts of chemicals.

17           Typically, we would take some chemicals out in the  
18 morning, put them in an ice bucket, in a little thing that we  
19 call a bullet, and then we would take out fractions of a drop to  
20 add to reaction mixtures. We do this during the day, and then  
21 return the chemicals at the end of the evening.

22           Radioactive chemicals decay with certain rates called  
23 half lives. And for example, if one has a particular -- if one  
24 has P-32, it decays to half the amount that you've initially  
25 started with in 15 days. That means, if you start out with a  
26 certain amount, probably you've lost half the radioactivity  
27 before you've finished -- before you've really gotten into much  
28



1 of your experiments.

2           Because these things typically decay so fast, that  
3 means that we, by leaving the materials in our refrigerator on  
4 the sites for a matter of a month or two more, we could reduce  
5 very much the amount of waste that we have to handle.

6           So, that's the first thing, on-site storage.

7           And the last thing I want to tell you is that there  
8 are very big changes that are occurring in molecular biology.  
9 Typically, sequencing has been done with radioactivity. That's  
10 turning out to be less and less. There are automated  
11 synthesizers which use fluorescent dyes all -- and these simply  
12 do the business for you. And they aren't used because -- as a  
13 replacement for radioactivity, but they're used because they're  
14 better.

15           So, another source of radioactive non-use turns out  
16 to be this firefly enzyme, luciferase. We do a lot of our  
17 experiments now by emitting light so we can expose radioactive  
18 films that we didn't use to use.

19           So, let me just end there. I wanted to -- I'm very  
20 appreciative of the time you've taken. I can see by this big  
21 crowd you're going to have a long day, but I do want to thank  
22 you.

23           I think it's very important, however, that we have  
24 some sort of adjudicatory hearing. And I would certainly like  
25 to see these confirmations held up until we have the opportunity  
26 to look at these new changes that are happening in molecular  
27 biology, and see how these affect the waste dump.  
28





1 Thank you.

2 CHAIRMAN ROBERTI: Thank you.

3 DR. LAKE: And you want to ask any questions --

4 CHAIRMAN ROBERTI: Senator Petris has questions.

5 SENATOR PETRIS: I think we need a little more  
6 information as to why you're opposed to the dump. We've had a  
7 lot of information, pro and con.

8 Is it a question of not having that kind of a dump  
9 anywhere in California? Most people don't want it. Is it the  
10 particular site that has defects? We could start with that.

11 DR. LAKE: That's a wonderful question, and that goes  
12 right to the heart of the whole issue.

13 As I see it, the entire university and the entire  
14 medical community contributes about 35 curies. That's just -- a  
15 curie is like a calorie, or something, whatever. It's a  
16 measurement of --

17 SENATOR PETRIS: Radioactive calorie.

18 DR. LAKE: Radioactive calorie, right.

19 Now, the state -- the dump is proposed to work for  
20 something like 35,000 calories or curies. And the point is that  
21 the major argument, one major argument, the one that I want to  
22 address, is, if we don't have this dump, we'll drive out medical  
23 molecular research from the state.

24 My argument is, nonsense. We just have to leave the  
25 wastes in our labs for a few more months with these short half  
26 lives, and we can have -- we can get rid of essentially the  
27 radioactivity certainly for those things that have short half  
28



1 lives.

2 And we're sort of having a little, tiny element drive  
3 this big monster which has this potential of very large  
4 financial -- you know, puts the state in big trouble  
5 financially, potentially.

6 So, I don't want to see this part of it drive it. If  
7 there are other reasons for you wanting to do it, then that's  
8 your decision. But I see this as not making sense.

9 SENATOR PETRIS: One of the criticisms I've heard is  
10 that they have an arbitrary range of a hundred feet below the  
11 deposit level and feel that gives an adequate cushion to prevent  
12 leakage down into the water.

13 One of the answers given by Mr. Gould is that some of  
14 the material we're talking about doesn't leak at all. It moves  
15 upward instead of downward, which was startling to me. I don't  
16 know a scientific explanation for that. I believe it, and I  
17 don't have reason to doubt that. But it was strange that here  
18 are people saying that a hundred feet isn't enough. There's no  
19 testing done below the hundred foot level. There may well be  
20 leakage that has gone that far, and there's a genuine fear that  
21 that may be the case, but there was no independent study done by  
22 the Agency to cover that area. One of the answers is, well, it  
23 really doesn't go down; it goes up.

24 Perhaps you can comment on that.

25 DR. LAKE: I think probably that's not my area of  
26 expertise, but sounds like good common sense, what you've said.

27 SENATOR PETRIS: It didn't sound like common sense to  
28





1 me, and that's why I asked.

2 [Laughter.]

3 DR. LAKE: Oh, it didn't. Well, okay, let me say  
4 what I heard you saying.

5 SENATOR PETRIS: We have a liquid moving upward  
6 instead of downward.

7 DR. LAKE: Oh, no. I meant that it sounded like  
8 common sense for you to question that; pardon me. Because I  
9 think there are -- first, you ask all the questions. And the  
10 part -- first question you ask is do we need it. And if we  
11 need it, then what are the liabilities. And the liabilities are  
12 enormous. You have to ask the specialists, and I would get  
13 outside my field to comment except rather in a personal level.

14 SENATOR PETRIS: All right.

15 I have another question relating to a comment you  
16 made regarding an adjudicatory hearing. We've had others write  
17 in and demand it.

18 The answer is, well, they've had numerous hearings  
19 over a period of a couple of years, 24 or 27 at one period of  
20 time, including some CEQA hearings.

21 Does the difference of an adjudicatory hearing, which  
22 is official and has an administrative judge, and a CEQA hearing  
23 have to do just with getting something on the official record?  
24 Or is it getting a quasi-judicial decision out of it?

25 I'm not clear as to why CEQA proceedings, which are  
26 used in a lot of other environmental areas, are not adequate for  
27 this particular case.  
28



1 DR. LAKE: I think that's -- that's, again, a very  
2 good question. I'm just not the person to answer that.  
3

4 But I do know there are going to be other people who  
5 will address just that point. One second.

6 SENATOR PETRIS: I'll reserve that. Fine.

7 I have a last question.

8 DR. LAKE: Okay.

9 SENATOR PETRIS: Can you give us a thumb-nail sketch  
10 of what molecular biology is? I guess they developed the DNA  
11 theory.

12 DR. LAKE: I'll be glad to.

13 SENATOR PETRIS: Is it the study of the physical  
14 make-up of molecules?

15 DR. LAKE: Okay. This is a -- that's -- I'd love to  
16 get the chance to answer this.

17 [Laughter.]

18 DR. LAKE: This is a good one, because we've had --  
19 in molecular biology, we've had an absolute revolution in the  
20 last ten years. We all have DNA in our bodies that tells us  
21 what to do, tells our cells what to do, how we work, how we  
22 don't get so old, whether we develop cancer, whether we don't.  
23 All of these things are controlled by DNA.

24 We now have the ability to take out the DNA of a  
25 person's cells. Just enough that a single tip end of a piece of  
26 hair, and you can identify the DNA. You can see from the  
27 sequences what's happening with the -- what the structure is.  
28 You read it just like a computer code, but this computer code



1 controls what we are genetically and who we are.

2 It's revolution. It's been made possible by being  
3 able to sequence DNA, and now it's also causing enormous -- it  
4 has enormous potential for good in medicine.

5 Now, what I'm saying is --

6 SENATOR PETRIS: Is this reliable?

7 DR. LAKE: I think it's reliable. It's very  
8 reliable; it's very --

9 SENATOR PETRIS: Is it standardized so that any  
10 person in that field who is competent will make the same  
11 analysis?

12 DR. LAKE: Exactly the same analysis.

13 SENATOR PETRIS: We have so many other situations  
14 where you send samples to three different labs, and you get  
15 totally different reports back from each lab.

16 That would not occur under this system?

17 DR. LAKE: With these analyses, it depends, like  
18 everything else in life, it depends upon who performs the  
19 experiments. But if you have competent people, almost  
20 everybody, assuming competent people, everybody gets exactly the  
21 same answer as far as sequencing genes is concerned.

22 It promises enormous revolutions. These revolutions,  
23 however, are being easier and easier to do now, not with  
24 radioactivity, but with fluorescent dyes, for example, for the  
25 sequencing. And for the bio assays, it's getting much better to  
26 use -- to use different types of non-radioactive tags.

27 And I think what that's going to do is even further  
28





1 reduce the need for the Ward Valley site, which I think even at  
2 present day usage doesn't exist for medical and research things.  
3 I think it's going to even further reduce the input from medical  
4 and biological sources into that.

5           SENATOR PETRIS: If you had no Ward Valley, and you  
6 had no site at all, you would take care of whatever problem  
7 there is in the research area by continuing to do what you're  
8 doing now, and that's preserving the substance in your  
9 refrigerator and reducing the half life as much as you can.

10           DR. LAKE: Yes, until it can be disposed of in normal  
11 landfills. And that's true for the most commonly used  
12 sequencing sorts of things, for S-35 and for P-32. Other things  
13 have -- require different solutions.

14           SENATOR PETRIS: As I understand it, the medical  
15 research is part of the reason, but there are a lot of other  
16 emphases. There's a lot of emphasis on federal legislation on  
17 the need for regional dumps, on California's commitment to  
18 neighboring states, and so forth.

19           You haven't gotten into that part of it, I guess?

20           DR. LAKE: I know about those, but they're much  
21 better for other people to talk about them.

22           SENATOR PETRIS: Okay, thanks very much.

23           DR. LAKE: One again, thank all of you.

24           CHAIRMAN ROBERTI: Next witness.

25           MR. HIRSCH: Mr. Chairman, Members of the Committee,  
26 my name is Daniel Hirsch. I am the former Director of the Adlai  
27 Stevenson Program on Nuclear Policy at U.C. Santa Cruz. I  
28



1 currently work with a public policy group in Los Angeles and  
2 chair a technical panel that's attempted to look at some of the  
3 outstanding scientific questions that remain about Ward Valley.  
4 That panel included: Dr. Robert Cornog, who was the  
5 co-discoverer of the radioactive substance tritium; Professor  
6 James Wharf, who was head of two of the Manhattan Project's New  
7 Chemistry Division, and several others.

8 I say that because I want you to understand that  
9 there's great concern in the scientific community about the  
10 adequacy of the job that has been performed to date by the  
11 Department of Health Services and the Health and Welfare Agency  
12 regarding the safety of this site.

13 We have had a number of difficulties in being able to  
14 make a determinate of the safety. One problem has been that  
15 these agencies have refused to release the information that is  
16 necessary for independent review. In particular, despite  
17 repeated requests, that there be a detailing of the waste stream  
18 that is to go to Ward Valley.

19 These agencies continue to refuse to do so, and only  
20 when Congressman George Miller, Chairman of the House Interior  
21 Committee, made a formal request did these agencies release the  
22 data, long after the draft and final Environmental Impact  
23 Reports were released and the comment period had closed.

24 Those data that were suppressed were eye-opening.  
25 They disclosed that more than half of the radioactive waste in  
26 this state at present, and 99 percent of the radioactive waste  
27 that they projected for the dump would come from just two  
28





1 companies. That we were to build this dump site in large  
2 measure for two companies.

3 When we found out who these companies were, we  
4 discovered that the state had failed to examine the alternative  
5 requiring these two companies to recapture the material that  
6 they had been dumping, this radioactive substance, tritium, to  
7 recapture and re-use it instead of dumping it. It's an  
8 absolutely massive quantity of material that the state is  
9 proposing to dump in unlined trenches above a pristine aquifer  
10 20 miles from the Colorado River.

11 This material, tritium, is the most mobile of all the  
12 radionuclides, and yet the contractor did not do an analysis of  
13 what would happen if that material leaked because its  
14 assumption, which the state has endorsed, that it would take  
15 thousands of years for radioactive material to migrate 600 feet  
16 to groundwater. The basis for that is the misconception on the  
17 part of the two individuals next to me that radioactive  
18 migration at the site is upward.

19 You have heard this. It's in the letter to you,  
20 Senator Petris. It's been repeated numerous times. It's based  
21 on a scientifically childish assessment that has been done by  
22 taking a look at a year's amount of evaporation at Ward Valley,  
23 comparing it with a year's precipitation. And by knowing that  
24 there's more evaporation potential at the site over a year than  
25 rainfall, assuming everything goes up.

26 But as we've seen just in the last few weeks with the  
27 storms we've had, rain occurs during the winter. Evaporation is  
28



1 primarily when it's hot and dry in the summer. We do get  
2 periods where there's substantial storms and puddling, and  
3 material does go downward.  
4

5 Now, this theory that it would take thousands of  
6 years for the material to migrate to the groundwater is the  
7 entire basis of the state's claim that the site would be safe.  
8 And yet, they suppressed information, solid data, that indicated  
9 that that assumption was not true. There were measurements  
10 taken at the site that were not included in the draft  
11 Environmental Impact Statements, and only because of the  
12 vigilance of the federal EPA and the Colorado River Branch of  
13 the State Water Quality Board was the state forced to at least  
14 include reference to these measurements.

15 These are measurements, Senator Petris, that you  
16 referred to, which is the finding that radioactive material has  
17 already migrated at the site as far down as they took  
18 measurements, which was 100 feet beneath the surface. This  
19 material is tritium, which again is the material that's the  
20 prime isotope that they're intending to dump at the site.  
21 Tritium occurs in small quantities in rainfall, primarily from  
22 fallout.

23 If that rain fallout has been able to get from the  
24 surface of that dump site down a hundred feet, it has to have  
25 done so in less than 35 years. A couple of reasons, the  
26 simplest of which is that we didn't create tritium fallout  
27 longer than 35 years ago. The first H-Bomb test was in 1954.

28 Even if it is occurring from the tiny amount that's



1 natural, the concentrations that are being found are such that  
2 it would, again, have had to take 35 years.

3 So, the State Water Quality Board and the EPA have  
4 been very concerned about the DHS claim of thousands of years'  
5 migration and safety of the site based on that claim.

6 Now, in the letter to you and a similar letter to  
7 Congressman Miller, Mr. Gould has made the claim that this  
8 tritium finding and the groundwater model, which would appear to  
9 contradict, have been independently reviewed by a blue ribbon  
10 panel appointed by the state, which included representatives of  
11 EPA, the Water Quality Board, and some independent scientists.

12 I have a statement which I was asked to deliver to  
13 you -- it's in the package that you have before you -- by Dr.  
14 William Bianchi, who served on that very panel. It claims that  
15 the statements made by Mr. Gould in his letter to Congressman  
16 Miller, which are the same statements he made to you, are  
17 incorrect or misleading at best. That the committee that was  
18 established that he served on, and is referred to by Mr. Gould,  
19 was steered away from dealing with the tritium finding and the  
20 question of the validity of the site and of the migration  
21 models.

22 Many members on that panel were extremely concerned  
23 that these measurements indicated that the site might not be  
24 safe, and that the migration model was incorrect. Dr. Bianchi  
25 says that the committee steered away from dealing with that  
26 issue; told, in essence, that they were only permitted to go  
27 ahead and try to come up with a model -- a system for monitoring  
28





1 the site once it begins operation. But that the suitability of  
2 the site was an established fact, and that they were not to deal  
3 with that matter.

4 I have checked that with several other members of the  
5 panel who indicated likewise that in no way did that panel  
6 endorse the model of long migration time. In no way did they  
7 say that this tritium finding is not a serious concern, raising  
8 serious questions. And in no way would they support the state's  
9 position of refusing to take measurements beneath the hundred  
10 foot level.

11 Let me explain what that means, basically. They went  
12 down as far as a hundred feet. They find tritium has already  
13 migrated in a few decades, perhaps years. These two individuals  
14 are refusing to take additional measurements to see if migration  
15 has gone beneath the hundred feet. They say that their model  
16 says it can't possible happen, and I must remind you that their  
17 model said it couldn't have happened a hundred feet to begin  
18 with.

19 SENATOR PETRIS: Mr. Chairman.

20 CHAIRMAN ROBERTI: Yes, Senator Petris.

21 SENATOR PETRIS: Now, I don't think either one of  
22 these two is a nuclear scientist or molecular biologist, and so  
23 forth. They're being advised by somebody in the Department or  
24 out

25 Was there an opportunity for a minority report when  
26 they reported back to the Agency after having studied the Ward  
27 Valley thing?  
28



1 MR. HIRSCH: Indeed, Dr. Bianchi, in the very  
2 documents referenced in this material, in the letter that was  
3 sent to you, did dissent, saying that the committee had been  
4 steered away from dealing with the implications of this finding.  
5

6 But I should tell you that there wasn't a minority  
7 report possible, because they were told all they were supposed  
8 to deal with was devising a monitoring system for once you start  
9 dumping, not whether it's safe to dump to begin with.

10 Dr. Schulz, who served on the panel, said in every  
11 case where tritium has been examined in dump sites elsewhere,  
12 tritium has been found to migrate. All the monitoring system  
13 will do at Ward Valley is tell us what we already know in  
14 advance, which is that tritium will migrate.

15 The question here is whether it will migrate fast  
16 enough to contaminate a huge aquifer and, potentially, the  
17 Colorado. And the Department's refusing to find out.

18 You're implying a second question, which is, I think,  
19 very important. You're right that they're not physicists,  
20 they're not technically trained in some of these areas.

21 The way you avoid, therefore, mistakes made by  
22 decision makers who do not have the technical expertise is  
23 precisely by what in the academic world we would call a science  
24 court, what in the nuclear area is an adjudicatory hearing. I  
25 have been in three of those.

26 And that is the mechanism whereby these scientific  
27 disputes are resolved. Not by decision makers who do not have  
28 the background, but by bringing up the experts from one side and





1 cross-examining them, and bringing up Dr. Cornog, Dr. Wharf, the  
2 other experts on the other side and having them rebut, and  
3 permitting them access through discovery for the documents that  
4 these agencies have suppressed to date.

5           And again, I don't want to convince you whether Ward  
6 Valley is right or wrong. My testimony here today is whether  
7 these individuals have acted properly in trying to make a  
8 decision that is irreversible and could be irreversibly very  
9 dangerous.

10           And the two particular instances -- and I'm going to  
11 tell you one last one as well -- of their behavior raise serious  
12 questions to me about that conduct. A, they will not find out  
13 whether it's gone beneath a hundred feet. B, they will not  
14 permit an adjudicatory hearing where experts can testify, not  
15 these public meetings where you get five minutes, then you're  
16 cut off. But a situation before administrative judges with  
17 technical training, procedures, findings of fact, conclusions of  
18 law, rebuttal, discovery, and the facts will out.

19           Those two things indicate to me a fear of finding out  
20 whether the safe is site [site] -- site is safe.

21           SENATOR PETRIS: What I was driving at was not to  
22 discredit them for not being scientists, but to find out who are  
23 the scientists that are urging them to steer away from the  
24 issue.

25           Is that a scientific trajectory, or --

26           MR. HIRSCH: Political.

27           SENATOR PETRIS: -- is that a political agenda in  
28



1 which they've been told, "Stay out of this."

2 Now, we've had that in other agencies. That comes up  
3 from time to time.

4 MR. HIRSCH: It's my impression that these decisions  
5 are being made on a political rather than a scientific basis by  
6 these agencies, and let me give the third example, if I may.

7 In the letter to you, Senator Petris, and in the  
8 meeting that was held on Monday, the two individuals who sit  
9 next to me at this table admitted to you and to us that they  
10 have held meetings with advocates of the dump site, including  
11 the applicant in this contested proceeding, without a transcript  
12 or minutes being kept, and without the other parties to the  
13 proceeding being present.

14 That is an ex parte, off the record meeting by a  
15 decision maker with an applicant for a license in the contested  
16 proceeding.

17 The state statute under which the licensing matter is  
18 to be conducted is a section of the Health and Safety Code which  
19 requires that upon request, there shall be a hearing on the  
20 record -- I'm quoting -- and that anyone who so requests shall  
21 be made a party. The state claims to have granted those  
22 requests, and yet, they are holding off the record meetings with  
23 the applicant without the other parties notified or present.

24 Now, this is not a minor procedure --

25 SENATOR PETRIS: Excuse me.

26 At this point, is the company an applicant or --

27 MR. HIRSCH: Yes.  
28



1           SENATOR PETRIS:  -- or have they been accepted?

2           MR. HIRSCH:  No.

3           SENATOR PETRIS:  I thought they were appointed  
4 already.

5           MR. HIRSCH:  They are the licensee designee.  And to  
6 move from licensee designee to licensee, they must receive a  
7 license in a pending licensing proceeding that's currently  
8 ongoing.  There's an application by U.S. Ecology pending before  
9 these two individuals.  They will have to rule on it whether  
10 these two -- whether this company meets the minimum standards  
11 necessary.  And as you know, there's a great deal of question  
12 about their past behavior in other states.

13           But no, there's a pending licensing proceeding,  
14 contested, in which there are other parties.  The statute  
15 requires that the information the decision makers make their  
16 judgments on be entirely on the record, with the other parties  
17 having an opportunity to respond.

18           This is not a procedural nicety or minor legal  
19 question.  We're talking wastes that have half lives of 24,000  
20 years, some of the wastes.  They're going to be there for a  
21 very, very long time.  Much of this material is nuclear  
22 power plant waste, in addition to the tritium I described.

23           If these two individuals make a mistake by thinking  
24 that water migrates up at the site rather than down, or some  
25 other error like that, because there is no adjudicatory hearing  
26 to hear the other side, and because they got off the record  
27 information that the other parties were not able respond to,  
28





1 then a decision that could end up polluting groundwater  
2 potentially, Colorado River potentially, large numbers of  
3 people's drinking water, could be made.

4 I think that the procedures by which these  
5 individuals have engaged violate the law, violate the normal  
6 procedures required, but most importantly, violate the kind of  
7 procedures that should be followed by responsible officials on a  
8 matter of great --

9 CHAIRMAN ROBERTI: How close is the site to the  
10 Colorado River?

11 MR. HIRSCH: Twenty miles from the Colorado River.  
12 The United States Geologic Survey says that this is an open  
13 basin that drains to the Colorado and the two basins to the  
14 north that appear to be connected to the Ward Valley basin that  
15 are directly connected to the Colorado.

16 By the way, the potential impact on the Colorado has  
17 not been examined at all in the Environmental Impact Statement.  
18 That issue's out; zero. No consideration.

19 SENATOR PETRIS: Has that been requested?

20 MR. HIRSCH: I filed a letter -- it's been requested  
21 many times. I filed on Monday with these two individuals a  
22 request based on new information, which I presented to you s  
23 well.

24 Dr. Coye said they were always open to new evidence.  
25 We ask that they now re-open the Environmental Impact Statement  
26 to consider, among other things, the connections with the  
27 Colorado, the tritium findings, the potential for tritium  
28



1 recovery.

2 I asked that they reconsider their position on  
3 adjudicatory hearings, that they be willing to make those  
4 further measurements beneath the hundred feet, and that they  
5 require these two companies to recapture the tritium instead of  
6 dump it.

7 I asked for an answer by noon today so that I could  
8 inform you whether there'd been a satisfactory response, and if  
9 there was to be no response in this time, to be told when we  
10 could expect a response so that you would know if you would be  
11 able to have it in time to make your decision.

12 I received not any word at all by noon today.

13 SENATOR PETRIS: There's also a dispute as to whether  
14 the adjudicatory hearing is required by law.

15 I think as the scientists see it, it's not a matter  
16 of legal compulsion --

17 MR. HIRSCH: But I'd like to answer the legal  
18 question, if I may also.

19 SENATOR PETRIS: I understand that the lead agency,  
20 the feds, do give a hearing.

21 MR. HIRSCH: If -- a radioactive dump site in most  
22 any other state would have an adjudicatory hearing. The Nuclear  
23 Regulatory Commission requires that. And I know what those  
24 procedures would be, and they are not the best in the world, but  
25 they are much better than what the state has given.

26 The State of California is what's called an agreement  
27 state. The state signed an agreement in the early 1960s to take  
28





1 over as a surrogate for the feds most radioactive regulations in  
2 the state. And the law under which that was done requires that  
3 the state's regulations be compatible with the federal  
4 regulations, and the agreement that the state signed with the  
5 feds promised that their regulations would be compatible, that  
6 they would continually update them to make them compatible.  
7

8 I understand by my colleagues at the table that they  
9 say NRC says, well, we really don't care what the law says; you  
10 don't have to make them compatible.

11 The law says the regulations must be compatible, and  
12 the state has failed to even issue any regulations as to the  
13 conduct of licensing proceedings for nuclear materials.

14 I requested them. I asked where can I find them in  
15 the codes, state regulations. Was basically told they do not  
16 exist, and then someone in their office went into a back room  
17 and typed up procedures for this particular hearing where we get  
18 five minutes. And I'm sure you know that the Administrative  
19 Procedure Act requires notice and comment, and opportunity for  
20 public input in those regulations.

21 So, it's a kind of -- how do I say it -- well, in all  
22 the years I've dealt with nuclear issues, I've found one  
23 particular intriguing fact: that nuclear materials are not  
24 merely very toxic to the human body, but they're toxic to the  
25 body politic. Nuclear matters seem to corrode democratic  
26 processes, and I believe that this particular situation of Ward  
27 Valley is proof positive that the democratic process has been  
28 corroded in the Department of Health Services and the Health and



1 Welfare Agency.

2 The danger is that an extremely unsafe project could  
3 go forward without the facts having been found out.

4 SENATOR PETRIS: Why is this happening?

5 MR. HIRSCH: I believe it's the power of money. I  
6 believe that we are seeing what academics like to refer to as  
7 captured agencies: regulatory agencies captured by the entity  
8 they are to regulate. It is easier to give campaign  
9 contributions to make sure that a regulatory agency doesn't  
10 really come down hard on you than it is to clean up your act and  
11 make sure you don't violate rules.

12 CHAIRMAN ROBERTI: I don't think -- maybe I'm wrong,  
13 but I don't think Mr. Gould or Dr. Coye checked the campaign  
14 contributions.

15 Now, are you saying the Governor?

16 MR. HIRSCH: I would say the contributions to the  
17 Governor are made in large measure based on what industry feels  
18 is his view about regulation, and that when he then --

19 CHAIRMAN ROBERTI: You're not saying anything  
20 specific, but you're saying a general attitude?

21 MR. HIRSCH: An attitude. And when he then picks  
22 nominees for regulatory agencies, he picks people who have that  
23 attitude towards regulation.

24 You asked an opinion. It's the only explanation I  
25 can have. I can describe the behavior. The reason for the  
26 behavior, maybe someone else can determine.

27 SENATOR PETRIS: Well, I thought you might give what  
28



1 official explanation's been given, and then take it apart, but  
2 we'll get to that.

3 They have responded as to why, and they will today.  
4 Perhaps you can rebut it later.

5 CHAIRMAN ROBERTI: Senator Petris, while we're at it,  
6 and while it's on my mind, maybe Mr. Gould and Dr. Coye can join  
7 the point -- why can't there be an adjudicatory hearing in this  
8 area and set everybody's mind at ease as to the safety of the  
9 Ward Valley site?

10 MR. GOULD: Senator, in looking at the process that  
11 the state used, we used the CEQA process, which at the time the  
12 decision was made to use that process, it was one which was both  
13 appropriate, and we felt that it was the best understanding  
14 within California about the mechanisms and the processes for  
15 public input.

16 As was described earlier, there were a number of  
17 specific public hearings. In addition to that, a number of  
18 public meetings. And there were hundreds if not a thousand  
19 copies of the EIR -- I'm trying to remember the exact number  
20 that were sent out to get additional public input.

21 So, I think we've tried to be very forthright in  
22 getting information regarding the site, and taking this as a  
23 very deliberate process, because we don't take this siting  
24 lightly, either. It's something that we've tried to be  
25 deliberate about, and very careful about.

26 And so, we think that we have used a mechanism that  
27 was appropriate and that did provide an opportunity for public  
28





1 input.

2 CHAIRMAN ROBERTI: You're saying we followed the CEQA  
3 process.

4 MR. HIRSCH: One quick response.

5 I believe a mistake has been made before by these  
6 individuals.

7 The siting of the Ward Valley site is being done  
8 under two laws: CEQA and the Health and Safety Code. The  
9 Health and Safety Code, carrying out the Atomic Energy Act as  
10 the surrogate in the state, as the agreement state.

11 Under CEQA you don't have to have adjudicatory  
12 hearings. Under the Atomic Energy Act and the Health and Safety  
13 Code you do.

14 CHAIRMAN ROBERTI: You're saying that that aspect of  
15 the law was not adhered to?

16 MR. HIRSCH: That's quite right.

17 CHAIRMAN ROBERTI: Mr. Gould, do you have a response  
18 to that?

19 MR. GOULD: Well, that is something that our  
20 attorneys looked at very closely, and also, I think there was  
21 also a suit filed by some members in opposition to the process.  
22 And the courts confirmed that the process that we had was  
23 appropriate --

24 MR. HIRSCH: Excuse me.

25 I don't believe -- I really believe you shouldn't  
26 misstate things.

27 There was no finding by that court. There has been  
28



1 no ruling by that court. That suit was withdrawn.

2 Please be accurate if you make such statements.

3 MR. GOULD: I'm speaking to my understanding.

4 I don't know the specific finding of the court. I do  
5 know that there was no change in the determination of the court  
6 in terms of the process used by the state, which is the CEQA  
7 process.

8 CHAIRMAN ROBERTI: I guess there is disagreement.

9 Senator Petris, do you have any other questions?

10 SENATOR PETRIS: I have a lot of them, but the  
11 question is the appropriate timing, when to go into them. And  
12 there are other witnesses.

13 CHAIRMAN ROBERTI: It's 3:00 o'clock, so why don't we  
14 break for ten minutes.

15 MR. HIRSCH: If I could make one last -- I do believe  
16 that this issue of ex parte meetings is one that merits your  
17 concern, and I do believe that you should perhaps consider  
18 holding up your judgment until there's been a response to the  
19 request that I made, to which I've had no response.

20 SENATOR PETRIS: Were you on this panel?

21 MR. HIRSCH: Which panel?

22 SENATOR PETRIS: The Ward panel?

23 MR. HIRSCH: The DHS panel?

24 SENATOR PETRIS: Yes.

25 MR. HIRSCH: No, but a colleague who was on my panel  
26 was, and that's the statement you have from him, Dr. Bianchi's  
27 statement.  
28





1                   SENATOR PETRIS: Is this Committee to Bridge the Gap  
2 your panel?

3                   MR. HIRSCH: Right.

4                   SENATOR PETRIS: You're Dr. Hirsch?

5                   MR. HIRSCH: Mr. Hirsch, yes.

6                   CHAIRMAN ROBERTI: We'll break for ten minutes.

7                   [Thereupon a brief recess was taken.]

8                   CHAIRMAN ROBERTI: We'll return to the confirmation  
9 of Russell Gould, Secretary of Health and Welfare Agency.

10                   We were hearing witnesses in opposition, specifically  
11 witnesses concerned with the Ward Valley nuclear waste site.

12                   Is there someone else who would like to come forward?

13                   MS. GLUCKSTEIN: Thank you, Senators.

14                   It's an honor to be here today. And I must say, I'm  
15 very excited. It's the first time that I've testified in  
16 Sacramento.

17                   I'm Dana Gluckstein, President of a new organization,  
18 Americans for a Safe Future. I'm also a member of the Hollywood  
19 Women's Political Committee.

20                   I'm here before you today representing thousands of  
21 citizens who have grave concerns as to how our California  
22 Department of Health Services has handled the licensing of the  
23 proposed Ward Valley nuclear waste dump.

24                   Now, I would like to say, especially to Molly Coye  
25 and to Russell Gould, that this is not a personal adversarial  
26 sort of thing, but this is really a conflict in terms of how  
27 this has been handled.  
28



1                   And for me, the first time being involved in our  
2 political process, I have great hopes that democracy will work.  
3 I went to Stanford. I was raised in a conservative Republican  
4 home. My parents live in Beverly Hills and have a condominium,  
5 Senator Beverly, in Redondo Beach, and --

6                   [Laughter.]

7                   CHAIRMAN ROBERTI: You're covering all the bases.

8                   [Laughter.]

9                   MS. GLUCKSTEIN: I don't know, is Stanford part of  
10 your district?

11                  SENATOR BEVERLY: And you could be moving to Carmel  
12 soon.

13                  MS. GLUCKSTEIN: And I could be moving to Carmel  
14 soon, right.

15                  [Laughter.]

16                  MS. GLUCKSTEIN: And I will say that in May of last  
17 year, I was on holiday up in one of my favorite places in the  
18 state, Stinson Beach. I used to live up there. And was very  
19 upset to hear that California is on the fast track to host the  
20 nation's first radioactive waste dump, the first commercial dump  
21 in 20 years.

22                  Now, I will say I will not purport that I'm a nuclear  
23 expert, but in the last few years I've been learning a lot about  
24 the condition of the nuclear crisis in the world. Mostly  
25 because I was invited several years ago to the Film Academy in  
26 Moscow and was very honored to see the first documentaries that  
27 came out about Chernobyl. It was very horrifying. It was  
28



1 devastating to see these young men in cleanup suits, white  
2 cotton cleanup suits, going into the core of the reactor to help  
3 the world, not realizing that they were giving their lives.  
4

5 So, I say this only to say that I am not an  
6 anti-nuclear radical activist, whatever the media likes to  
7 label, but I represent a constituency, tens of thousands of  
8 people, in California that are concerned. Concerned about  
9 fiscal liability, concerned about health and environmental  
10 issues.

11 What we are asking here today is only that the  
12 confirmations be delayed of Mr. Gould and Ms. Coye only until a  
13 full, unbiased adjudicatory publicly disclosed hearing occurs so  
14 that all information can be really laid out on the table. I've  
15 been working on this issue for nine months, and as you heard  
16 from Dan Hirsch and you will hear from other experts, there are  
17 so many things that just common sense will tell you our state  
18 should know about.

19 There are a couple other things that I would like to  
20 say. Just as thousands of women were not told the truth by Dow  
21 Corning about the potential for silicone rupturing in their  
22 bodies, I am worried that Californians have not been told the  
23 whole truth about Ward Valley. Our DHS tells us that the  
24 proposed storage methods are state of the art and are  
25 practically leak-proof. What we are not told is that if there  
26 is an accident, we, the taxpayers of California, will be liable  
27 for the damages, not U.S. Ecology, the dump contractor.

28 Whenever I speak to friends, my father -- who's a





1 staunch Republican -- this is shocking information. Why is it  
2 that the taxpayers are liable for the nuclear waste?

3 Our DHS has also failed to disclose the fact that  
4 U.S. Ecology has an abysmal track record of faulty design and  
5 mismanagement. U.S. Ecology was denied an operating license by  
6 the State of North Carolina, and was our state's fourth and last  
7 choice to build and operate this dump. The other three included  
8 Westinghouse denied, and they denied the state's offer. I find  
9 this most unusual, and I would like to understand why they were  
10 not interested in running this dump.

11 We also have been told by the DHS that the waste  
12 purported for Ward Valley is low level medical wastes, such as  
13 booties and gloves. Well, as a lay person, for me, that sounds  
14 like it should be low debt -- low danger. But one might  
15 erroneously believe that this is low danger because there is no  
16 mention of the highly carcinogenic nuclear power plant and  
17 industrial wastes that will travel along our rail and highways  
18 to Ward Valley, not only throughout California, but across the  
19 entire country to come to Ward Valley.

20 Our very own State Controller, Gray Davis, and our  
21 Lieutenant Governor, Leo McCarthy, have warned us that licensing  
22 Ward Valley is a potential fiscal nightmare for our state.

23 It is my understanding, even though I was an art  
24 major, and I'm in the film industry, that our state is already  
25 experiencing the worst budget deficit in history. Seventeen  
26 states, including California, have just filed suit against the  
27 federal government on the constitutionality of the mandate that  
28



1 has made states and their taxpayers financially responsible for  
2 nuclear waste.

3           Should not the DHS be concerned with these issues?  
4 Finally sitting face-to-face with both of you, I know that you  
5 are common sense people, that you would understand this. Why  
6 should we race blinding ahead the next few months to license and  
7 begin construction on this dump when the whole constitutionality  
8 question has not even been answered? Why should California be  
9 the first to have a dump? We all know that if that's true, all  
10 the other states will throw up their hands and say, "We don't  
11 need a dump. California was silly enough to do it for us."

12           So, in conclusion, I urge you to delay the  
13 confirmation of Secretary Gould and Department of Health  
14 Services Chief Coye only until adjudicatory hearings have been  
15 called for and all the facts are out in the open. This is  
16 something that for months, numerous citizens' groups have tried  
17 to sit down to the table to speak face-to-face. This is not  
18 adversarial. This is about the truth.

19           I believe in the truth. I was raised to believe that  
20 our system of government worked, and I hope that we will find  
21 that this is true. And I will carry this message back to the  
22 media in Los Angeles, across the state, and across the country.

23           Thank you very much.

24           CHAIRMAN ROBERTI: Thank you.

25           Senator Mello has a question.

26           SENATOR MELLO: I just went over -- the appointee  
27 process has one year to get confirmed or they're out.  
28





1           The delaying that you're asking for, his last day,  
2 one-year date, is up April 14th, but that's Easter week. So the  
3 last effective date for us to take action would be April 9th.

4           We usually have the appointee's confirmation go to  
5 the Senate Floor, stay there two weeks. So, the Rules Committee  
6 action will actually have to be made by the 25th of March, which  
7 is next week.

8           So what I want to ask Mr. Gould at this point,  
9 because in talking to you and others here, and at least Senator  
10 Petris's point is, I think if you make a commitment to hold this  
11 adjudicatory hearing under the rules proposed, I guess, under  
12 the NRC or the federal rules, that's what everyone here is  
13 asking for. And I think it's, from my perspective, I don't  
14 think -- you can't do it before the confirmation. That's my  
15 point. If he could commit to doing it, say, within 60 days or  
16 90 days, that gives him time to give notice of the hearing and  
17 so forth, and have it at a convenient place where people could  
18 attend.

19           But I had Devil Canyon in my district at one time and  
20 others. You know, people, and I am, too, are just frightened  
21 about what happens with the whole nuclear industry and the  
22 dangers posed by the half lives, and it just never goes away.  
23 And I'm not a technical expert, but I certainly believe in the  
24 expert testimony we've had here today.

25           Let me ask you, yes or no, do you think you can have  
26 an adjudicatory hearing and resolve this question where everyone  
27 here, then, would have a chance, pro and con, to appear under  
28



1 those standards?

2 MR. GOULD: Senator, I think in response to that, we  
3 feel we have gone through a process. And to look at an  
4 adjudicatory hearing could add substantial delays to any final  
5 decision that might be made.

6 And we have to look at, you know, taking a step  
7 back, at what we're trying to accomplish.

8 SENATOR MELLO: So I take it your answer's no?

9 MR. GOULD: Right.

10 SENATOR MELLO: Well, I tell you, you might lose the  
11 votes here, because, I mean, I'm one of your strong supporters.  
12 I hope you know that. And I have some other questions later on,  
13 but this is an important issue, I think, with a lot of people.

14 I'm really sorry you wouldn't be willing to go  
15 through the process.

16 MR. GOULD: Well --

17 SENATOR MELLO: My point is, anything that's good can  
18 withstand public scrutiny in a public hearing. If it isn't any  
19 good, we should forget about it. And I think that's the way we  
20 should proceed.

21 MR. GOULD: Senator, I wouldn't disagree at all. We  
22 want the information, and we want to make sure that any decision  
23 we make is the right one.

24 This is a situation that will be with us for many  
25 years, and we do not take this sitting casually or cavalierly.

26 We have gone through an extensive review process. As  
27 you know, the legislative history, this really started many  
28



1 years ago, back in 1983. Senator Alquist was one of the first  
2 state authors to really start the state in the direction of  
3 acquiring a site and moving forward.

4 We have gone through -- and we checked with the  
5 Nuclear Regulatory Commission on the question of what was the  
6 appropriate process for California. CEQA's process was  
7 certified to be an appropriate process. We went through that.

8 We have tried to be very deliberate in terms of  
9 getting information and making responsible choices.

10 So, I'm not trying to avoid information, nor trying  
11 to in any way avoid making a responsible decision on this.

12 The question is whether or not --

13 SENATOR MELLO: I think that would resolve it fairly,  
14 but I'm really sorry that you've taken the negative approach,  
15 because I would have hoped you'd have said, "Yes, let's hold it,  
16 and we'll do it in May or June."

17 I think with that commitment from you, that would  
18 satisfy me, certainly, and I hope everyone here.

19 Okay, thank you.

20 MS. GLUCKSTEIN: I just -- Senator Mello, I just  
21 wanted to add one thing, and also Mr. Gould, perhaps -- I know  
22 there's so many things that you have to tend to that you may not  
23 be aware of this.

24 But this was shocking and appalling for me to  
25 understand that part of the state process over the last eight  
26 years was working with the League of Women Voters in San  
27 Bernardino County, near Needles. A very small group of elderly  
28





1 women -- I've met with them before -- who worked closely with  
2 the dump contractor, U.S. Ecology; were paid, I believe, \$65,000  
3 to write a manual, a public relations manual for how citizens  
4 are to deal with a nuclear waste dump. The manual, which I  
5 believe we can send to the Senators if you would like to see, is  
6 inaccurate. The information is not accurate. It does not  
7 correspond to Department of Energy statistics.

8  
9 This is not due process of democracy. There was not  
10 any collection of people across the state that had an  
11 opportunity to respond, and this is an issue that will not just  
12 impact people in Needles. This will impact an entire state.

13 So, I don't understand the technical aspects of what  
14 the CEQA process is, but I can tell you that this was not a  
15 majority process. And as you can see here, your very own  
16 Legislators are very unfamiliar with the details of Ward Valley.  
17 This does not seem like a state that's been informed.

18 As a matter of fact, when I first brought this to the  
19 Hollywood community, because there were many grass-roots  
20 organizations that had been working on this for months, and  
21 still nobody knew about this in May, and the dump was to be  
22 licensed in July, people had never heard of Ward Valley. And  
23 there's still people across the state who do not know of Ward  
24 Valley.

25 This is a financial disaster, potentially greater  
26 than the savings and loan debacle. Why are these questions not  
27 being answered? Why has State Controller Gray Davis been  
28 stonewalled, Lieutenant Governor Leo McCarthy, numerous



1 Legislators that have been working on this? We've had hearings  
2 with Byron Sher. I know that none of this is new to you. This  
3 is not a simple move.  
4

5 Maybe you can answer some of those questions. Do you  
6 feel that the League of Women Voters in San Bernardino County, a  
7 group of elderly women, is a consensus for an entire state on a  
8 major move that will impact future generations?

9 CHAIRMAN ROBERTI: We'll have you ask that question,  
10 but in the future, direct your questions through the Chair.

11 MS. GLUCKSTEIN: Excuse me, I'm so sorry.

12 CHAIRMAN ROBERTI: It's quite all right.

13 Mr. Gould or Dr. Coye.

14 DR. COYE: I think it is important to add that there  
15 were both 27 public hearings during the process, the earlier  
16 process of the siting and design process, and also since the  
17 EIR, there were seven full formal public hearings that were  
18 held.

19 So, the League of Women Voters process was not the  
20 only process for public participation. There is almost nothing  
21 that goes on in this state that everybody in the state knows  
22 about. But seven hearings were held, including in Northern  
23 California, in areas that are not directly involved. So, we  
24 were trying to make sure that everybody knew.

25 So, there certainly has been that attempt.

26 I think it's also important and interest to look at  
27 the involvement of the League of Women Voters historically. At  
28 that time that was done, the idea of essentially forcing the





1 potential contractor to pay for the involvement of the public  
2 was seen as a very radical step. That this was basically  
3 saying, "Why should the state pay for it? We should force those  
4 who are actually going to benefit from the operation of the site  
5 to put up the money for this."

6 And the League of Women Voters has been traditionally  
7 looked at as a very respected entity to handle public  
8 participation.

9 So, I don't -- as you know, being relatively new to  
10 the process -- know the specifics of the particular League of  
11 Women Voters group that handled this, but in general, I think  
12 the assumption was that the League of Women Voters is a very  
13 respected group to have handle public participation, in addition  
14 to formal public hearings, not as a substitute for that but in  
15 addition to it.

16 So, while I think that this, you know, certainly has  
17 not meant that everybody you've had contact with has known about  
18 this, that there has been some fairly substantial public  
19 awareness. As Mr. Gould said, over a thousand EIR reports have  
20 been distributed, mailed out. And we know from the responses,  
21 they've been very carefully studied.

22 So, I think that there has been at least a very well-  
23 meaning attempt to get the information out.

24 MS. GLUCKSTEIN: And I -- may I respond, please?

25 I do believe that years ago, perhaps, it was a novel  
26 idea to work with the League of Women Voters. I think that  
27 they've been misinformed on the facts. I've participated in  
28



1 numerous public hearings that have occurred in the last nine  
2 months, and I have to say that they're very distressing.

3  
4 As I said, it's my first time being involved in  
5 public policy. And I watched the Department of Health Services  
6 hearings in July, where they purposefully spread out the  
7 hearings across the state -- in Needles, Los Angeles, and  
8 Sacramento -- to make the opposition -- have it more difficult  
9 for us to mobilize.

10 And this was not recorded factually. People did not  
11 have to -- to swear their testimony. There were things that  
12 were not accurate. And I also watched major media  
13 environmentalists walk around and shake hands with the Cal Rad  
14 forum and articles that were prewritten before the hearings.

15 This is very upsetting when you come in in an  
16 innocent fashion, as I did, believing that our system of  
17 government and the media work when you give them the facts, and  
18 you find out that that doesn't happen. And as a private  
19 citizen, that you spend thousands of hours of your personal  
20 time. I took a sabbatical from my work in film because I was so  
21 frightened about what was happening, and tried to raise money to  
22 -- to help all the other groups across the state that were --  
23 that were doing it.

24 What I would like to believe is that concerned  
25 citizens could have called the DHS, and organization that I had  
26 never heard of until this time, and say, "Dr. Molly Coye, we  
27 hear that you have a wonderful environmental track record. We  
28 are concerned. May we sit with you to discuss these things with



1 you?"

2  
3 Certainly the responses that you got from the EIR  
4 from numerous technical experts, Dan Hirsch being one of the  
5 most brilliant, showed that there were grave concerns.  
6 Congressman George Miller has written numerous reports on the  
7 concerns. These things are not being answered.

8 Why are they not -- excuse me, Senator Roberti.

9 CHAIRMAN ROBERTI: We'll ask the question. It's  
10 okay; I understand.

11 Maybe Mr. Gould or Dr. Coye can address the question  
12 of responses to these individuals in your conclusion.

13 Thank you very much.

14 MS. GLUCKSTEIN: Thank you very much. Thank you.

15 MR. ADAMS: Good afternoon, Mr. Chairman, Members of  
16 the Committee.

17 In the interest of being brief, I will not repeat  
18 much of what you just heard from Dana and from Dan Hirsch. But  
19 I would like to tell you my own version of being involved with  
20 this real quickly.

21 I've been working on the Ward Valley --

22 CHAIRMAN ROBERTI: Please identify yourself.

23 MR. ADAMS: Certainly. My name is Jim Adams, and  
24 I'm representing the Redwood Alliance, and I live up in Arcada  
25 in Northern California, Humboldt County.

26 I've been working on the Ward Valley issue now for 18  
27 months, and I have to say that the process that I have been  
28 involved with has been flawed. I've attended the public





1 hearings. I've written numerous letters. I've helped organize  
2 the state coalition of the group of people that you see before  
3 you today on Ward Valley.

4 I believe truly that unless we have an adjudicatory  
5 hearing on this issue, the State of California will be making a  
6 grave mistake by moving forward on this project. There's  
7 absolutely no question, given the issues involved, the potential  
8 disaster both economic and environmental, the breadth of the  
9 opposition both from Congress people, from elected officials in  
10 California, the issues involved, that the only way that we can  
11 resolve this is have a meaningful, public hearing on the issues  
12 of Ward Valley.

13 I am urging the Committee to delay the confirmation  
14 of Mr. Gould and Ms. Coye, both of whom I met with on Monday,  
15 and I wish to reiterate that this is not a personal matter.  
16 This is a matter of professional involvement here. That I wish  
17 that this Committee delay their confirmation until they agree to  
18 have an adjudicatory hearing.

19 We have asked for this -- Mr. Gould mentioned that  
20 there was a delay; that the adjudicatory hearing would mean a  
21 delay. That may be, but we made this request well over a year  
22 ago to have the adjudicatory hearing, and that denied.

23 The fact of the matter is that if they would have  
24 proceeded with the adjudicatory hearing, which they have the  
25 authority to do, and in fact is the common sense thing to do, we  
26 would have had the hearing already. We would have had much more  
27 information on the record, and I think we'd all be in a better  
28



1 situation in terms of trying to understand just what sort of a  
2 project's here, a project that will affect California for  
3 literally thousands of years. And that is not an exaggeration,  
4 given the half lives of the material we're talking here.

5 Be that as it may, if it means that we have an  
6 adjudicatory hearing and we delay the licensing six months or  
7 even a year, given the time that this project and its impact,  
8 its potential impact on California, I would think that that's  
9 time well spent, particularly raising the issues that we yet --  
10 we have yet to get the adequate information.

11 Dan Hirsch raised the issue of tritium. The issue of  
12 why the facility has no liner designed to be placed underneath  
13 it. The reason why the other companies that were awarded the  
14 bids prior to the current licensee, U.S. Ecology, refused to  
15 take the project on. The ability of U.S. Ecology to build and  
16 operate a facility given their track record in Kentucky and  
17 Illinois, where both of the facilities leaked, and it's cost  
18 those states millions of dollars. And in fact, the State of  
19 Kentucky, U.S. Ecology is trying to get the State of Kentucky  
20 to pay the entire bill for cleaning the mess up underneath the  
21 facility, and numerous other issues.

22 Until we have a hearing to discuss those and get the  
23 experts to look at the information -- we have discovery rights;  
24 we have the ability to prepare briefs and submit findings of  
25 information before a judge and have him issue a decision on the  
26 project -- we will not have done what the public interest  
27 demands.  
28





1                   And I would hope that the Committee Members take  
2 their responsibility this afternoon very seriously. And you  
3 have heard Mr. Gould flat-out deny or refuse to have an  
4 adjudicatory hearing, and I find, actually, the response to be  
5 fairly outrageous. And I believe that if that is the response,  
6 then the confirmation should be delayed.  
7

8                   I understand the time that you raised, Mr. Mello, in  
9 terms of the so-called drop dead date, but I believe that here  
10 and now, Ms. Coye and Mr. Gould could in fact say yes to the  
11 question of the adjudicatory hearing. And the fact that they're  
12 not willing to do that tells me that they really don't want to  
13 provide a public forum so that we can get to the bottom of this  
14 project. And that, in my view, is what is going on here today.

15                  So, with that, I will conclude and urge you to please  
16 delay confirmation until these folks agree to do the common  
17 sense thing; that is, grant us the adjudicatory hearing.

18                  CHAIRMAN ROBERTI: Thank you, Mr. Adams.

19                  MR. ADAMS: Thank you for your time.

20                  CHAIRMAN ROBERTI: Senator Petris has a question.

21                  SENATOR PETRIS: I'll wait.

22                  CHAIRMAN ROBERTI: Very good, thank you.

23                  Next witness, please.

24                  MS. MEDDICK: Good afternoon, Mr. Chairman, honorable  
25 Members.

26                  My name is Sherry Meddick. I am the United States  
27 Radwaste Campaign coordinator for Greenpeace.

28                  I have been involved in this process, and



1 specifically in analyzing the waste stream, since last July. I  
2 want you to note that I have used every available means given me  
3 through the variety of processes since that time. I have a  
4 paper trail a mile long.

5 I cannot get the information from the DHS that I have  
6 requested.

7 What I originally sought to do was to look at the  
8 preliminary data that they used to develop the waste stream  
9 scenarios in the EIR. That's all I had asked for.

10 What I really wanted to know is how they arrived at  
11 the numbers that they arrived at. A pretty good question and a  
12 simple one.

13 Well, it has been anything but simple to get the  
14 data. Beginning in July, I began to place calls to DHS Chief,  
15 Don Langendorf, asking first, "Did you analyze the shipping  
16 manifest for the waste?"

17 Dr. Tamara Marcus, a Cal Rad Forum member, and also a  
18 U.C.L.A. Patient Clinic physician, had indicated that she had  
19 received, quote, "the original waste manifest" from the chief of  
20 Radiological Health.

21 I immediately placed a call to Ed Bailey, who denied  
22 having the waste manifest and said that in fact that statement  
23 had caused him quite a bit of trouble.

24 So, I then wrote a letter to Don Langendorf, asking  
25 him, "Well, if you didn't use this data, precisely what did you  
26 use?" I'd like to read you his response, if I may. It's very  
27 brief.



1 "Regarding shipping manifest, the  
2 Department of Health does not have  
3 copies of the manifest. Neither the  
4 Environmental Management Branch nor  
5 the Radiologic Health Branch posses  
6 them. Dr. Marcus may have received  
7 ..."

8  
9 blah, blah, blah.

10 What that indicates, and this is very important to  
11 understand, is that the original data used in the EIR was  
12 provided by the project proponent; that is, the designated  
13 licensee U.S. Ecology.

14 Then I began to ask the logical question: How did  
15 you cross check this? What was your independent means of  
16 analysis to arrive, to verify, that this data was correct?

17 Four months later I have not received an answer. I  
18 have been working on this now since July, trying to get at a  
19 very simple point, and I think a very proper one. It's the  
20 very heart of this issue: What is the waste? Where is it  
21 coming from? How much is there? What kind of waste, et  
22 cetera?

23 So, in Mr. Gould's responses to your questions,  
24 Senator Petris, he describes a couple of different things. He  
25 does not say that they did an independent analysis, because it  
26 appears they have not.

27 What he does say is that, concerning the review of  
28 the waste stream data, a review of the process is informative.





1 It is, indeed. It informed me that the DHS took no independent  
2 action to verify, analyze, the data.

3 Furthermore, even upon multiple public requests by  
4 telephone and through written communication, and now through a  
5 Public Information Act request, I still cannot get the very  
6 data.

7 If these people had, if this Agency had, been  
8 responsible, they would have immediately handed over the data,  
9 looking forward to the public's cross check, to say, "Yes, we  
10 agree. These numbers are right." Or, "Whoops. Somebody made a  
11 mistake. This information is wrong, and you should know about  
12 it."

13 What has happened, however, is the following. Once  
14 it was determined, as Dan Hirsch indicated, that we have very  
15 high levels of tritium in the waste, a very large percentage,  
16 there was -- there was momentum for a mandatory tritium  
17 recapturing program. Instead of throwing it in the ground,  
18 dumping it in barrels, which American Ecology [sic] has  
19 admitted will seriously disintegrate in 50 years -- instead of  
20 doing that, why don't we recapture it?

21 Well, once the industry got wind of that, all heck  
22 broke loose. What happened was, they said, "Oh, wait a minute.  
23 We don't have that much tritium."

24 In this letter that they sent you, they have now  
25 revised their figures once gain. And do you think I can get  
26 the figures once again? And do you think I can get the  
27 preliminary data to show even this? I've asked for the surveys  
28



1 that are mentioned. They have not been forthcoming.

2 They indicated to Congressman Miller that these  
3 surveys were done by telephone. This document says that they  
4 were done in writing.

5 The only possible process that can shed light on  
6 this properly so that the public has an alternative to have  
7 their questions answered in detail, in substance, is that  
8 adjudicatory hearing process.

9 When the public gets up at a public hearing, they  
10 have five minutes. They cannot go into detail. They submit  
11 written comments, and with the assumption that their question  
12 will actually be answered. But even your questions weren't  
13 answered, Senator Petris, as you are well aware.

14 I'm extremely distressed to see this. To me, this  
15 was nothing more than a lot of tap dancing around the very  
16 issues that are causing the problem.

17 Had they come forward, had they said, "We made a  
18 mistake, let's go back and clear this up. Let's look out for  
19 the well being of the state and the citizens," I would feel  
20 much better. But it's clear that the Agency doesn't have that  
21 direction in mind, and it's very disconcerting.

22 I would like to just finally add that regarding the  
23 hydrology, I have done extensive readings in to the geological  
24 reports, many of which address this region, the Ward Valley.  
25 There are indications from experts that hydrology cannot  
26 clearly be understood without at least five years of study.  
27 That has not happened here. They haven't even scratched the  
28





1 surface.

2           The Regional Water Quality Board, Region 7, Bob  
3 Purdue, informed me that they basically know nothing about the  
4 water basin. They don't know where it goes; they don't know  
5 how big it is; they don't know on and on and on.

6           And here we are, putting radioactive waste, which  
7 will last for over 12,000 generations -- twelve thousand  
8 generations -- above a major source of potential drinking  
9 water. In fact, they've even talked about banking Colorado  
10 River water in this aquifer.

11           I would suggest to you that in view of DHS's what I  
12 would call irresponsible lack of concern for the public's right  
13 to know, that I would ask for an adjudicated hearing, and I  
14 would ask that decision, that obligation, be made today; that  
15 it not be extended. That we -- that somebody takes some action  
16 today.

17           I'm very concerned that this not go on any longer.  
18 I have -- I'm going to literally have to write dozens upon  
19 dozens of Public Information Act requests, which I should not  
20 have to do, and frankly, I don't want to have to do. I would  
21 prefer to hash this out in a proper -- a proper proceeding.

22           If you have any questions, I'd be happy to answer  
23 them. And just for the record, for your file, I would like to  
24 submit these into the administrative -- whatever process --  
25 record you have up here, if I may. Those are the various  
26 communications between myself and DHS, and also the results of  
27 a meeting with these two individuals on Monday, which, I might  
28



1 add, resulted in absolutely no -- virtually no resolution of  
2 any of the issues.

3 If you have any questions, I'd be happy to take  
4 them.

5 CHAIRMAN ROBERTI: You are Ms. Reddick?

6 MS. MEDDICK: Ms. Meddick.

7 CHAIRMAN ROBERTI: Senator Petris.

8 SENATOR PETRIS: I was just going to ask your name  
9 again and your affiliation. I missed that at the beginning.

10 MS. MEDDICK: I'm the United States Radwaste  
11 Campaigner for Greenpeace.

12 SENATOR PETRIS: Thank you.

13 MS. MEDDICK: You're welcome.

14 CHAIRMAN ROBERTI: Is there another witness?

15 MS. GODSHALL: Thank you, Members of the Committee.  
16 My name is Liberty Godshall. I'm here as a citizen  
17 and a taxpayer, also the mother of a six-year-old son.

18 Four years ago, my husband, Edward Wick, and I  
19 created a television show called "thirtysomething". And as  
20 story editor, I tried to create characters who felt a moral  
21 obligation to confront political and environmental problems.

22 I -- I want to say today that, sitting here and  
23 listening to this, I am frankly frightened to death, and many  
24 other people in my community are as well.

25 The idea of listening to even contemplating risking  
26 our state's, and many other states', water supply is very  
27 frightening to me, to say nothing of the burden for the already  
28



1 over-burdened taxpayers of California.

2 I would just like to say that I don't understand  
3 why we can't have an adjudicatory hearing, because we have  
4 everything to gain by it and nothing to lose. However, if we  
5 don't have it, the damage is irrevocable.

6 So, I'm calling for that, and also a delay in the  
7 confirmation of Mr. Gould and Dr. Coye.

8 Thank you very much

9 CHAIRMAN ROBERTI: Thank you, Ms. Godshall.

10 How many other states have sited their nuclear  
11 waste site pursuant to --

12 FROM THE AUDIENCE: None, Mr. Chairman.

13 CHAIRMAN ROBERTI: Let me ask Mr. Gould.

14 [Laughter.]

15 CHAIRMAN ROBERTI: How many other states have sited  
16 their federally mandated nuclear waste site? Do you have any  
17 idea?

18 MR. GOULD: Well, there are three operating sites  
19 currently. One in Beatty, Nevada; one in Washington, and I  
20 believe one in -- was it North Carolina or South Carolina?

21 DR. COYE: South.

22 MR. GOULD: South Carolina.

23 I don't believe that any new sites, though, have  
24 been establish as a result of the federal process, if that's  
25 your question.

26 CHAIRMAN ROBERTI: So, there's no site pursuant to  
27 the federal process. Three states already, apparently, do have  
28





1 sites pursuant to a different process before the law passed.

2 MR. GOULD: That's right. Many of these have been  
3 in operation for some time.

4 CHAIRMAN ROBERTI: I was wondering, if the issue is  
5 federal law that we have to conform to, we can't delay that to  
6 any great extent.

7 If other states haven't moved that rapidly, why is  
8 California moving rapidly?

9 MR. GOULD: I think it goes to two questions.  
10 First, in terms of the provisions of federal law, after  
11 January 1st of 1993, those sites -- I mentioned Nevada,  
12 Washington and South Carolina -- could limit access to their  
13 sites and put California in a position of having to maintain  
14 its waste within California, either at transfer stations or at  
15 the sites themselves. We have over 500 generators within  
16 California.

17 So, that is a factor in terms of the overall timing  
18 question.

19 I think what the other states are looking for is  
20 what kind of progress is being made. I think the State of  
21 Michigan has already had some problems with these states that  
22 do have facilities because of their lack of progress.

23 CHAIRMAN ROBERTI: You mean if California evidences  
24 a lack of progress, then our ability to dump waste outside of  
25 our own state is going to be restricted?

26 DR. COYE: My understanding is that the court  
27 decision in the case of Michigan -- and again, I'm not a lawyer  
28



1 -- but my understanding of this is that they said that if  
2 Michigan had not shown substantial progress as of '93, that  
3 that deadline of January, '93, then the other states, the three  
4 states that currently accept low level radioactive waste, could  
5 reject Michigan's waste.

6           So, there is a hazard in beginning to make  
7 progress, and unless you have, as we are currently -- we are  
8 going slower than many anticipated we would because we have  
9 questions, and because we're trying to learn about some of  
10 these issues and pursue them - if we all of a sudden said, "No,  
11 we will not move at all; we're just simply going to wait and  
12 drop back to the middle of the pack," then in that case, we  
13 would risk a declaration that you don't --

14           CHAIRMAN ROBERTI: Right now, we dump our nuclear  
15 waste where? Some of it we keep here, as I understand. Some  
16 of it goes to, what, Nevada?

17           DR. COYE: Beatty in Nevada, and some of it may go  
18 to Ridgeland. I'm sure nothing goes to South Carolina.

19           CHAIRMAN ROBERTI: How much of it stays within the  
20 state?

21           DR. COYE: I -- the question -- a fair amount of it  
22 is held temporarily in the state. Some medical facilities do  
23 have on-site permanent storage.

24           CHAIRMAN ROBERTI: That's what I was told --

25           DR. COYE: And some doesn't leave at all.

26           CHAIRMAN ROBERTI: -- in earlier testimony.

27           DR. COYE: I don't know -- I can provide that  
28





1 information. I don't know it personally.

2 CHAIRMAN ROBERTI: So, it's mixed. Some stays; you  
3 don't have a percentage. Other goes to Beatty, maybe to South  
4 Carolina.

5 DR. COYE: By volume, probably most of it leaves.  
6 By radioactivity, I don't know what proportion stays or goes.

7 CHAIRMAN ROBERTI: This is a very difficult issue.  
8 I very much want to vote for your confirmation, Mr. Gould, and  
9 frankly, we haven't heard the testimony on Dr. Coye, but I  
10 suspect my feelings would be the same.

11 Nevertheless, sometimes you have to make  
12 irretrievable decisions that last for the generations. That's  
13 just the nature of government.

14 But I don't know if the opponents to confirmation  
15 -- I don't think that's the correct word -- have established a  
16 conclusive case, but I think maybe they've established a prima  
17 facie case, in my mind, that maybe we should give this a little  
18 thought.

19 I am, unfortunately, not a molecular scientist, so  
20 I don't -- I mean, I have to give it a little thought, but I  
21 don't know if it will be that damaging to our state's interests  
22 or to the environment to have this adjudicatory hearing.

23 Frankly, I have to acquaint myself a little bit  
24 more with what an adjudicatory hearing is.

25 But after today's witnesses, I tend to think  
26 they've established a prima facie case that there is a problem,  
27 and it's one that maybe has to be addressed.  
28



1                   Now, maybe it is true that you will be able to  
2 overcome that, and I certainly hate holding up your appointment  
3 because of it, because I, frankly, think you're a good  
4 appointee. But this is an enormous issue. Both of you are  
5 good appointees. This is an enormous issue, as you know. And  
6 the last thing I would like to have happen if there ever is a  
7 disaster -- and I hope there isn't, you know -- is that we were  
8 slovenly about the matter. That would be just something that  
9 would come to haunt all of us.

10                  Senator Petris, I believe you had a question.

11                  SENATOR PETRIS: Well, I have pretty much the same  
12 feelings.

13                  I'm very concerned about what I've heard on the  
14 adjudicatory process, and I would urge both Dr. Coye and  
15 Mr. Gould to reconsider.

16                  I understand the original decision was made before  
17 your time anyway.

18                  I had a case once, years ago, in a federal court in  
19 which a client of mine was prosecuted under a federal criminal  
20 statute dealing with the Communications Act. And I went to the  
21 U.S. Attorney, who spent a lot of time up here before he was  
22 appointed. It was a very important First Amendment case, as I  
23 saw it.

24                  I said, "You ought to get off this guy's back.  
25 He's not violating any laws. He's operating as a provider of  
26 information."

27                  He said, "Well, you're probably right, but, you  
28



1 know, I'm new here. And this decision was made before I got  
2 here."

3 "Well, it was a bad decision. You have the power  
4 to change it, so change it."

5 Well, he wouldn't change it, and he got clobbered  
6 in court, thanks to my skills as a criminal law defense lawyer.

7 [Laughter.]

8 SENATOR PETRIS: I have a lifetime winning average.  
9 I've never lost a criminal case. That's the only one I ever  
10 tried.

11 [Laughter.]

12 SENATOR PETRIS: But -- and I can understand the  
13 reticence as part of good administration and rapport with your  
14 people, if a decision's been made, and you know, you come in  
15 later, and they're operating on that decision, and they're  
16 doing things, it's a little difficult to buck the tide and  
17 say, "Wait a minute. This thing has to be reconsidered, and I  
18 think we ought to change it. Let's go for the hearing."

19 That takes more, well, let's say guts, and goes  
20 against the grain, more than if you just said, "Well, okay,  
21 that decision was made. We're honored to -- or at least I feel  
22 obligated to honor it, and we'll go ahead."

23 I would urge you to just forget about the momentum  
24 that's been built up within the Department prior to your  
25 arrival, and reconsider it, and say, well, you don't know how  
26 the hearing's going to come out; neither do the advocates of  
27 the hearing. I guess they're very confident that they can get  
28





1 the proper scientific information before the administrative  
2 judge, but I don't know how many of them would take a bet on  
3 the outcome.

4           You have genuine differences of opinion in the  
5 scientific community on both sides. Some scientists must have  
6 advised you people that it's okay to go this way. So, it's not  
7 an open-and-shut case.

8           Yet it seems to me that the proper thing, because  
9 the stakes are so high -- I think that's what Senator Roberti's  
10 emphasizing, the stakes are so high in this area. We've never  
11 dealt with this before. It's still new. And if we had some  
12 problems based on a helter-skelter decision, it would haunt all  
13 of us.

14           So, I would urge you to reconsider. You know, put  
15 your heads together.

16           I would like to see us put this over. A week would  
17 be enough.

18           CHAIRMAN ROBERTI: The last thing I want to do is  
19 just have Mr. Gould's time run out.

20           Maybe we can talk to you. Maybe within a week's  
21 time, you will conclusively convince us that, you know, the  
22 delay's unwarranted and it would be more harmful to the state  
23 to make a delay. Maybe we can have some conversations, and I  
24 think the governor has some major input in this area, too.

25           SENATOR MELLO: Mr. Chairman, may I just pursue one  
26 point.

27           That is, being the only attorney -- nonattorney  
28



1 here present today, my colleagues all being attorneys, I was  
2 reluctant to ask the difference between an adjudicatory hearing  
3 and what goes for the CEQA process.

4 CHAIRMAN ROBERTI: But now you can because I  
5 admitted my lack of knowledge.

6 SENATOR MELLO: Senator Roberti said I'd like to  
7 hear more about this, so now I'm not afraid to ask the  
8 question.

9 But I would like to know. The reason why I think  
10 -- if the opponents here today, if they feel they have a better  
11 shot in court for filing a motion, a lawsuit, appeal, or  
12 whatever, if that's the case, then I know those CEQAs are being  
13 challenged all the time. They get in court.

14 So, can you tell me, and I'd like to ask somebody  
15 from the other side who's knowledgeable in the adjudicatory  
16 process, what is the difference? Well, what risk do you take  
17 by going to an adjudicatory process that you feel would be more  
18 difficult to defend?

19 DR. COYE: Neither of us are lawyers, and so, I'm  
20 fool hardy enough to try to respond to this. And I suspect  
21 some of the other people in the audience will also contribute a  
22 better -- or some elements to understanding this.

23 But the essential difference is -- is that in the  
24 CEQA process, the public has the opportunity to put forward  
25 their opinion, either verbally or written, and is responded to  
26 by the Department or -- by the Department or by the Agency.

27 In, as I understand it, in an adjudicatory  
28





1 process, there is opportunity for discovery and  
2 cross-examination. And it's in front of, I believe, an  
3 adjudicatory -- I don't know the right term for the judge --  
4 administrative law judge, thank you, who hears this.

5           SENATOR MELLO: The point is, under CEQA, I think  
6 you didn't go far enough. A public agency can made a negative  
7 declaration, or they can do mitigation and so forth. But  
8 still, the opponents of the project under CEQA, they're in  
9 court all the time. They find that the findings are not  
10 correct. The Environmental Impact Report did not properly  
11 reflect the findings, or due process was not carried out, and  
12 so forth.

13           So, I guess, you mentioned, then, that the  
14 findings, and cross-examination, so now my next questions is,  
15 what in the findings do you believe might be adversely  
16 effective to your case, and you're fearful of them being -- I'm  
17 thinking in my mind about the 55,000 barrels that were dumped  
18 out into the Pacific Ocean out in San Francisco a few years  
19 ago. Whether or not there was an adjudicatory hearing on that,  
20 I don't recall. But I know there's a lot of monitoring going  
21 on. Someday we might pay a real price for that.

22           But let them answer, is it the findings, and the  
23 discovery, and the briefs that you're concerned about?

24           DR. COYE: I think the concern is, frankly, more  
25 one of if we came to the point of feeling that all of the  
26 materials that we're currently reviewing suggest that we should  
27 go forward, that the estimates of the time required for an  
28



1 adjudicatory process, I believe, are somewhere in the order of  
2 six months to a year-and-a-half, because of the complexity of  
3 it. And --

4  
5 SENATOR MELLO: She said 12,000 generations, and  
6 usually I talk in years. Two hundred thousand years is better  
7 to understand, but what's six months got to do with the half  
8 lives of nuclear waste?

9 CHAIRMAN ROBERTI: Mr. Lake.

10 MR. HIRSCH: It's Hirsch.

11 CHAIRMAN ROBERTI: Excuse me.

12 MR. HIRSCH: That's okay.

13 Under the CEQA process, members of the public get  
14 to attend a meeting in which they make five-minute statements.  
15 They can send in letters to the state. That's the extent of  
16 the hearing. That's what they've conducted so far.

17 In an adjudicatory hearing, the state's experts  
18 would be placed on the stand and would be cross examined by  
19 people technically competent, and would ask them, for example,  
20 if you were dealing with the waste question of dumping in the  
21 ocean, "What studies have been done about how they implode as  
22 they go down?"

23 You would have had the right to discovery  
24 beforehand and been able to obtain those studies in advance;  
25 you can use those in cross-examination of that witness.

26 Your own experts would be able to review that  
27 material you obtained in discovery. For example, we would have  
28 been able to obtain the top 100 generators list for the state,



1 and been able to find out where the waste was really coming  
2 from, and about these alternatives of tritium recovery, which  
3 we were not able to do under CEQA. And it took a Congressman's  
4 intervention to get that little bit of information pried out of  
5 them.

6  
7 So, you would have had three things go on:  
8 discovery, the ability to get the information that their  
9 agencies have withheld so far; the ability to scrutinize the  
10 claims made by their experts which our experts find to be  
11 scientifically in error; and the ability to have our scientific  
12 experts come up and rebut.

13 Lastly, there would be a find on the record in  
14 which both parties would put forward the proposed findings and  
15 conclusions -- findings of fact and conclusions of law. And  
16 the judge or judges would have to make a decision based on that  
17 record, without ex parte, off the record, information coming  
18 forward.

19 The difference, quite frankly, is the dumps -- you  
20 know, the dumping of those barrels into the ocean, in my view  
21 it would never have occurred. I know about one site off of Los  
22 Angeles where they said in advance in the environmental review:  
23 don't worry; stuff will not get out of the barrels. And twelve  
24 years later, after they dumped, they went down and found a  
25 third of the barrels had breached.

26 Had there been a proper adjudicatory hearing  
27 beforehand, those claims would have been challenged,  
28 scrutinized, and hopefully, a more scientifically based





1 decision should be reached.

2           Now, I don't want to fool this Committee or the  
3 public in thinking that an adjudicatory hearing is magic. The  
4 NRC procedures are vastly better than what the state has  
5 permitted so far, but in my view, they're pretty corrupt also.

6           And one piece of news that you probably know  
7 already is -- and I don't know why you're so scared of the  
8 hearing for this reason -- that the NRC proceedings, there has  
9 never, ever been an adjudicatory hearing in which the public  
10 have won. The choice of administrative judges by the agency  
11 has always been of people with such strong views already that  
12 the outcome is preordained.

13           What has happened --

14           SENATOR MELLO: Let me ask a question.

15           The administrative law judge makes a decision based  
16 on the findings of fact?

17           MR. HIRSCH: You may propose findings of fact, and  
18 then the judge issues his or her own opinion.

19           SENATOR MELLO: What happens? Is this a federal  
20 hearing in a federal court?

21           MR. HIRSCH: It's an administrative proceeding not  
22 in court.

23           SENATOR MELLO: Under the federal authority,  
24 though?

25           MR. HIRSCH: That's right, and the state, because  
26 it's an agreement state, should be doing the equivalent  
27 operation here.  
28



1                   SENATOR MELLO: Is it appealable to a federal  
2 district court?

3                   MR. HIRSCH: Yes. After the decision is issued by  
4 the adjudicatory proceeding, you have appellate rights if you  
5 believe that there has been a violation of process. Generally  
6 the courts will not second-guess the factual judgment made by  
7 the lower tribunal, but will determine if there's been an error  
8 of law.

9                   SENATOR MELLO: Okay, thank you.

10                  CHAIRMAN ROBERTI: Thank you, Senator.

11                  Anyone else here to testify? Yes, please come  
12 forward.

13                  MS. RAFTERY: My name is Mary Raftery. I'm a  
14 policy analyst for CALPIRG. It's the California Public in  
15 Trust Research Group.

16                  I am here speaking on behalf of our 120,000 members  
17 across this state, and we have -- we share the technical  
18 concerns that have been voiced by the preceding speakers. And  
19 in fact feel like we could go on to prove not only the prima  
20 facie need for the adjudicatory hearing, but in fact go on to  
21 prove conclusively the questions that remain unanswered on this  
22 dump.

23                  But the only one I'll answer is what would happen  
24 if the three dumps closed down. I think it's important to  
25 realize there are 31 other states who are in the same -- who  
26 have that same question facing them as California does right  
27 now. And in fact, those states are hoping that we do move  
28





1 forward on this dump, and that they may be able to get access  
2 to it. It makes it easy for them.

3 So, it's not clear what will happen, but it's  
4 likely that two of those dumps that are currently operating may  
5 stay open, or they may just raise their cost to send things  
6 there. It's not certain that those three dumps will close  
7 down.

8 So, I'll leave the technical concerns at that, and  
9 say that we do have another overriding concern, which is just  
10 the public process issue. We really have been unable to get  
11 adequate access to key information about the dump, and feel  
12 that that adjudicatory hearing is a very simple answer to give  
13 us the access we need to have a clear debate about the dump and  
14 to answer the questions at hand.

15 And frankly, we're just bewildered by the Agency  
16 that is unwilling to grant that.

17 Thank you.

18 CHAIRMAN ROBERTI: Thank you.

19 SENATOR MELLO: Are we going to put him over at  
20 this point? I have a letter here that I wanted to give him so  
21 he could respond to --

22 CHAIRMAN ROBERTI: Let's see if there are any other  
23 witnesses first.

24 Thank you very much.

25 Please come forward.

26 MR. YOUNG: Ladies and gentlemen, thank you for the  
27 opportunity to testify. My name is Ward Young. I'm an  
28



1 environmental educator. I work with the Bay Area Nuclear Waste  
2 Coalition.

3 I would like to address the broad question of the  
4 legacy that we are leaving to the future with this proposed  
5 Ward Valley radioactive waste dump.

6 We've had testimony telling you about the misnomer  
7 that a lot of the material is short-lived medical waste, when  
8 in reality much of the material is very long-lived and very  
9 hazardous.

10 What we are -- what is being proposed here is to  
11 dump radioactive -- long-lived radioactive materials directly  
12 into the environment, to inject them into the environment.

13 Now, in other states, many other states have  
14 outlawed this method of burial. They have outlawed shallow  
15 land burial. And this is one of the things that we need to do  
16 in California.

17 In other countries, much of this waste is not  
18 considered low level waste. It is considered high level waste,  
19 and will be -- for example, in Swede, they are attempting to  
20 come up with methods which would contain this waste for  
21 hundreds of thousands of years. Whereas, in California, the  
22 proposal is to inject it, as I said, directly into the  
23 environment.

24 It is a great fallacy to believe that regulating  
25 this site would end 100 years after closure, which is the  
26 current law. The citizens of Sheffield, Illinois, home to a  
27 dump operated by this same contract, U.S. Ecology, won't forget  
28



1 about the movements of radioactive substances, which is taking  
2 place now, into the groundwater they drink and the air they  
3 breathe. The costs, both in health terms and in economic terms  
4 will continue to mount far into the future.

5 We need to fully examine the long-term nature of  
6 some of the radioactive substances that would be buried at Ward  
7 Valley before this dump would become a permanent part of the  
8 landscape and our legacy to the future.

9 Please require an adjudicatory hearing before the  
10 process goes further, and before this confirmation is  
11 completed.

12 Thank you.

13 CHAIRMAN ROBERTI: Thank you.

14 Any other witnesses?

15 MS. BRANGAN: Hello. I'm Mary Beth Brangan from  
16 the Nuclear Democracy Project, and I'm also a film maker, a  
17 producer of educational media. And we're focused mainly on the  
18 topic of how the nuclear issue affects democracy.

19 And I'm -- you -- everyone here who has testified  
20 before me in opposition has spoken very completely. I won't go  
21 over anything else, except to say that I am heartened by your  
22 response in the democratic process.

23 Thank you very much.

24 CHAIRMAN ROBERTI: Thank you, Ms. Brangan.

25 Anyone else?

26 MR. KLASKY: I'll be brief.

27 There was a lot I wanted to say; a lot has been  
28





1 said.

2 My name is Philip Klasky with the Bay Area Nuclear  
3 Waste Coalition.

4 I, too, am heartened by your response. I think  
5 it's a very responsible response, given the situation.

6 I'm here to express my serious concerns about this  
7 confirmation. In my view, the confirmation should be  
8 contingent upon agreement to hold adjudicatory hearings.

9 That's very simple; it's very direct. We've seen that today.

10 Another consideration is that California could  
11 become the nation's nuclear dumping grounds. As you indicated,  
12 Senator Roberti, we're the furthest along of all the states.  
13 The NRC has the power to direct radioactive waste from any  
14 other state to California under emergency access provisions.  
15 And the Compact Commission, which is made of appointees, also  
16 has this power.

17 Instead of providing the public and its elected  
18 representatives with independent information about a number of  
19 issues, the DHS has depended on U.S. Ecology, the dump  
20 contractor who has left a legacy of leaking dumps all across  
21 the United States, for this information. And U.S. Ecology has  
22 tailored this information to manipulate the facts. That's why  
23 we need an adjudicatory hearing.

24 We need to let the public into the democratic  
25 process. We need to let the public know that this process can  
26 work in their favor. And decisions that you make today will  
27 certainly affect thousands of future generations.  
28



1 Thank you.

2 CHAIRMAN ROBERTI: Thank you very much.

3 Any other witnesses?

4 MR. EICHELBERGER: My name is Don Eichelberger.

5 I'm with the Abalone Alliance, safe energy clearinghouse, in  
6 San Francisco.

7 And I thank you for today's opportunity to make my  
8 points.

9 The first point I want to make is that as -- having  
10 worked in this issue for 13 years, and having worked on the  
11 Ward Valley issue for about two-and-a-half years, since the  
12 release of the Environmental Impact Statement and call for  
13 comments in the Federal Register, prior to that time, we had no  
14 indication of the hearings, the many hearings, that were held  
15 predominately in and about Santa Barbara -- or, San Bernardino  
16 County, excuse me, on this dump.

17 So, to say that there was adequate input, I think,  
18 is questionable just based on my personal experience in that.

19 I'd like bring a slightly historical aspect to this  
20 issue in terms of a similar set of hearings that happened 13  
21 years ago before the Nuclear Regulatory Commission, when the  
22 Abalone Alliance petitioned to have Rancho Seco shut down in  
23 the wake of the Three Mile Island accident.

24 At that time, at those hearings, we were requesting  
25 the then State Department of Health Services Director on a  
26 report that was issued by their office, citing a direct  
27 relationship between radioactivity contamination in cow's milk  
28



1 and the distance of dairies from Rancho Seco. And at that  
2 time, the Director of Health Services didn't know about the  
3 report that was issued by their office, and so our member  
4 attempted to put them under citizen's arrest for dereliction of  
5 duty.

6  
7 Fortunately, or unfortunately, depending on what  
8 side of the table you are on, we couldn't find any precedent or  
9 any enabling legislation to allow that.

10 So, what has that taught us in the last 13 years?  
11 Well, in 13 years the voters of Sacramento County have voted to  
12 shut down Rancho Seco, taking a step that the regulators failed  
13 to do 13 years ago, realizing it's dangerous. It now sits  
14 there, waiting to be de-commissioned, waiting to be taken apart  
15 and placed into a repository. If this license goes through, it  
16 will go to Ward Valley, very much of it, except for the spent  
17 fuel rods and the core. The rest of it is subject to go to  
18 Ward Valley.

19 In the absence of the kind of personal  
20 accountability we were looking for when we tried to put the  
21 state Health Services Director under citizen's arrest, we feel  
22 like the process itself needs to protect the public from the  
23 kind of decisions that could be made.

24 Therefore, we strongly urge a -- the approval of an  
25 adjudicatory hearing so that we can get all of our concerns on  
26 the board and let people know what it is that this dump  
27 represents.

28 And just a final shot, this is -- this should not





1 be a dump. I keep wanting to push for the concept of  
2 repository. A dump in an unlined trench in the middle of the  
3 desert, no matter where it is, in the middle of the desert or a  
4 swamp, doesn't pass simple requirements for a state landfill in  
5 this country, in this state. It shouldn't -- especially  
6 shouldn't pass any kind of set of requirements or expectations  
7 for a nuclear waste dump with the kinds of half lives we're  
8 looking at.

9  
10 And I think that we do need to look at this and  
11 give this large issue the kind of respect it deserves. And the  
12 only way we can do that is through an adjudicatory hearing.

13 Thank you.

14 CHAIRMAN ROBERTI: Thank you, Mr. Eichelberger.

15 Are there any other witnesses?

16 Senator Mello.

17 SENATOR MELLO: Thank you, Mr. Chairman.

18 This is on a different issue. Do you have a copy  
19 of the Filante letter?

20 MR. GOULD: Yes, sir.

21 SENATOR MELLO: Assemblyman Filante had asked me to  
22 try to get some answers on the letter. He's upset that the  
23 Governor didn't respond to his letter in two weeks. And I  
24 said, "My goodness, this makes me feel good that I don't get a  
25 response for several months."

26 But at any rate, his letter points out -- and I  
27 didn't sign the letter, but 34 Members did sign it. I do agree  
28 with him. That is that your Department has set standards on



1 closing the National Guard Armories on the homeless using  
2 certain weather criteria; namely, 50 percent chance of rain or  
3 temperatures below 40 or 50 degrees.  
4

5 What's happened, as you know, this went into effect  
6 February 15th. We've had, you know, rains and so forth, which  
7 we're fortunate for having, but it's put a lot of people out in  
8 the street. There's some 12,000 people affected.

9 He's asking in the letter that you suspend those  
10 regulations and come up with something a little better that  
11 would not close the Armories when there's a need for providing  
12 shelter for the homeless.

13 I'm not asking for a response now, but look his  
14 letter over, and if you can respond when you come back before  
15 this Committee, I'll tell Assemblyman Filante that you'll be  
16 providing a response to the Committee. You might want to  
17 include him in your response as well.

18 MR. GOULD: Very good.

19 SENATOR PETRIS: Senator Mello, do you have any  
20 other questions?

21 SENATOR MELLO: Well, we'll be getting a response  
22 from this.

23 In looking over my notes, you had agreed to -- I  
24 see a couple of notes here. Senator Bill Greene made some  
25 statements regarding Community Care Licensing. That's  
26 something we talked about.

27 I think it should be noted that I asked a question  
28 last time, because I think the fact that you got appointed in



1 April, April 14th or something like that, many of these  
2 incidents that were cited by the Dobsons and other families  
3 happened before you came there. And I think the only one being  
4 -- Dobson was November 24th of 1990, and one of them happened  
5 around the 4th of July, and that was just a few weeks after you  
6 were there.

7  
8 As far as the rest of those other statements, the  
9 point I want to ask you, I asked you to respond to those series  
10 of events. I did not see the copy, but I'll have my staff.

11 SENATOR PETRIS: Yes, I read that. It's very  
12 specific and detailed, and it prompted me to inquire as to  
13 whether we're going to bring back the original witnesses,  
14 because it seems they were way off base. I think that the  
15 letter shows candor and thoroughness, and completely refuted  
16 the allegations made.

17 And it troubles me, because they came in under the  
18 banner of a violation of due process, which always interests  
19 me. I jump into fights that I normally wouldn't on the campus  
20 where it involves due process.

21 Anyway, I think you should have an opportunity --

22 SENATOR MELLO: I haven't read it. I just want to  
23 point out, I think Senator Greene's statements were made out of  
24 frustration from some of his clients that have experienced some  
25 of the things that have happened in the past.

26 You're aware of them, and my only hope is that  
27 these situations have to be corrected. I mean, there has to be  
28 due process. You can't bust into a community care facility,





1 remove all the patients at that moment. It has a more  
2 devastating effect on the patients in there than it does even  
3 the operators, not to minimize their effect.

4 But the whole area of Community Care Licensing, and  
5 the whole area of care, custodial care, I think, really has to  
6 be looked at, and try to reflect what we in the Legislature,  
7 and also what you in your Department, feel is fair, and the  
8 kind of care that is deserving to the patients in there.

9 MR. GOULD: Senator Mello, I couldn't agree with  
10 you more.

11 I think Community Care Licensing is an area that  
12 we've paid a great deal of attention to. We've tried to look  
13 at the methods of the operation. And we believe we've made  
14 substantial improvements.

15 I think I mentioned that last time I was before you  
16 that we had nine specific changes which we were going to  
17 incorporate, and we've incorporated some of those already. And  
18 I've had a number of meetings with providers, as has John  
19 Healy, who's interim Director for the Department. I think  
20 we're making good progress in making the whole system better.

21 So, that's our endeavor and one thing we're going  
22 to do. And that's my commitment to you, that we will continue  
23 that effort.

24 I feel I have to respond to some of the comments  
25 that Senator Greene made.

26 I just want you to know that we have a very  
27 different recollection of the discussion I had with him. I  
28



1 think that I clearly indicated that I would respond to  
2 inquiries; that I had my staff follow-up the day after the  
3 meeting, because the meeting ended about 7:00 o'clock at night,  
4 to make sure that we got any additional information.

5 I responded to him in writing on two occasions that  
6 I was interested in any additional information. And I met with  
7 him personally and told him I will always look at any  
8 information that he or any other Member provides in order to  
9 ascertain if there are problems in programs. And I want you to  
10 know that's my ongoing commitment. I will do that, and that's  
11 just the way I will operate.

12 I thought I had to say that.

13 CHAIRMAN ROBERTI: Thank you.

14 I did receive information from staff of Senator  
15 Watson, who, I take it, was at that meeting as well, that she  
16 is in support of your confirmation. I just want to make that  
17 clear.

18 MR. GOULD: Thank you.

19 SENATOR PETRIS: I wanted to get the names and  
20 addresses of the prior witnesses so I can communicate with  
21 them.

22 Frankly, I was very angry at the Department when I  
23 heard that testimony. Now I'm angry at the witnesses, and I  
24 want them to explain themselves. I think they owe it to all of  
25 us and to the public.

26 Thank you.

27 CHAIRMAN ROBERTI: We haven't had a chance to touch  
28



1 on a whole host of things, that's because you're going to be  
2 heading a very important Agency of state government.

3 Obviously, one of the concerns that we all have is,  
4 we're looking to leadership from the Administration in the  
5 whole area of health insurance coverage, and what appears to be  
6 the depletion of our resource as far as health coverage is  
7 concerned. Trauma centers have, for all intentions, totally  
8 closed down. Emergency centers are closing down. The  
9 availability of health care to hundreds of thousands of  
10 Californians in just the last couple of years has decreased.  
11 Insurance costs are rising.

12 Senator Petris has an innovative piece of  
13 legislation in this area. The Insurance Commissioner is coming  
14 up with another piece of legislation in this area.

15 But frankly, without the leadership of the  
16 Administration, it's going to all be for naught. So, we're  
17 looking for that.

18 I'd like to hear, in a nutshell, what your plans  
19 are.

20 We want to have -- I think all of us in the  
21 Legislature want to have the feeling that there is going to be  
22 leadership and drive in this area. It may not be a program  
23 that we necessarily agree with, but there has to be something  
24 where we're going to work together to arrive at a solution.

25 MR. GOULD: Senator, let me respond to that.

26 I had the opportunity to sit on a panel with  
27 Senator Petris recently, and we got the opportunity to talk  
28





1 about health care and the dilemma that California's facing.

2           There's no question, when you find that there are  
3 nearly six million Californians without health care, that's  
4 unacceptable to all of us. We have got to find ways to  
5 increase access to quality health care, and affordable health  
6 care, to more Californians.

7           Obviously, the economic circumstances that  
8 California finds itself in is something that can't be ignored,  
9 either. It becomes a factors in looking at any of the  
10 potential solutions in how we try to achieve better quality and  
11 accessible health care for Californians.

12           As we look at alternatives -- and you're quite  
13 correct. Both the Medical Association and the Insurance  
14 Commissioner have proposals out. Senator Petris has added to  
15 the discussion with, I think, a far-reaching approach in terms  
16 of different models of health care delivery for Californians.

17           I think we have to look at all these proposals.  
18 And kind of the principles, if you will, that we will be  
19 starting from in the Health and Welfare Agency is, number one,  
20 how do we make a substantial difference? How do we try to  
21 reach more Californians that are currently without health care?

22           Secondly, to the extent that we may not be able to  
23 reach everyone, how do we ensure reaching priority populations?  
24 We're talking about women of childbearing ages, and children,  
25 and trying to make a real difference in terms of where we  
26 direct what limited resources we have if we're not able to move  
27 more broadly into a universal concept.  
28



1                   And I think in addition to that, we have to be very  
2 conscious about any change that we make at the state level in  
3 terms of some of the proposals that impose a payroll tax; other  
4 proposals have a mandate on employers. What are going to be  
5 the implications in terms of the jobs and economy on  
6 California?

7                   I think we're all sensitive to the fact that  
8 California has lost well over 600,000 jobs over the last couple  
9 of years. California is in competition not only with other  
10 states, but internationally. We have to look at the provision  
11 of health care and try to make a difference, at the same time  
12 not putting ourselves in the situation where we might risk  
13 employers and the creations of jobs in California.

14                  We have taken a tact in the Health and Welfare  
15 Agency at this point of really focusing on priority  
16 populations. If you look at the AIM program last year, Access  
17 for Infants and Mothers, we provided increased medical care for  
18 pregnant women, as well as well baby care. We have also this  
19 year proposed a Check-up program, which is trying to provide  
20 good primary preventative care for pre-schoolers. Trying to  
21 say that's a priority population, and make sure they're healthy  
22 enough when they arrive in school that they can be very  
23 prepared to learn, because they are healthy.

24                  We also recognize, and I believe there's  
25 substantial opportunity to beyond some of these early  
26 interventions that we've done, in terms of looking at insurance  
27 reform, and other areas of cost containment, and other factors  
28



1 which we think, blended together, can assist more people,  
2 including the small business market, which right now is one of  
3 the large areas which has dramatic levels of uninsured  
4 Californians. When you look at the overall uninsured  
5 population, 90 percent of them have linkage to employment,  
6 either as being directly employed or being the dependents of  
7 employed people.

8           So, we need to look at why small employers are not  
9 currently available -- availing themselves of insurance. Why  
10 are they being costed out of the market, which I think is the  
11 situation in many cases. And what can we do to try to  
12 influence the affordability of health care.

13           Obviously, when we look at this, it's something  
14 that if it was done on a national basis, if there was a  
15 national solution, it doesn't effect the competitive situation  
16 for our state, which might be embarking on trying to make a  
17 significant difference. So, we'll be watching very closely  
18 what's happening at the national level, but we can't stand  
19 still in California. We have to start making a difference.

20           And even with the limited resources we have, we've  
21 made some very tough priority proposals within this year's  
22 budget that tries to carve out dollars for what we consider to  
23 be high-risk and very vulnerable populations. We want to make  
24 a good early intervention.

25           But given the kind of year we're under, and I know  
26 you're all struggling with the same circumstances, we have had  
27 to cut many other services that have been with us for years and  
28







1 California citizens have relied on.

2 So, we have some tough choices, and those are some  
3 of the parameters that we'll be looking at, trying to make a  
4 difference.

5 We're going to continue to look at the proposals  
6 that are out there, and we want to work with the Legislature to  
7 come up with a solution that is both practical but really makes  
8 a difference for improving the insurance and availability of  
9 health care for more Californians.

10 CHAIRMAN ROBERTI: Thank you, Mr. Gould.

11 Senator Petris.

12 SENATOR PETRIS: I appreciate that. I'd like to  
13 continue the dialogue we had before at another time.

14 I think you and the Governor should both be  
15 commended for opening up a lot of new initiatives, but not the  
16 welfare initiative. Let's say a lot of new ideas, to be more  
17 general. And I'd like to discuss those with you as well.

18 The loss of jobs is of concern to all of us, but  
19 even those who go to Mexico in order to pay 85 cents an hour  
20 instead of \$15, or \$16, or \$18, are going to a country that  
21 provides health care. They have their form of national health  
22 care insurance. So, they're not going to leave California to  
23 find a jurisdiction that has that particular disadvantage.  
24 They're going to have to pay for a health care system when they  
25 go there. They can afford it at 85 cents an hour.

26 I've noted to some of the critics of my position  
27 that I don't know of any company that has made that decision  
28



1 that has slashed the executives' salaries to make them  
2 commensurate with the 85 cents an hour. Huh-uh. In fact,  
3 they're getting bonuses because they're saving the company all  
4 that money.

5 So, there's a lot of things we need to review.

6 Prenatal care. I had a terrible time trying to get  
7 a few dollars out of the prior Administration for parts of my  
8 district which have the highest infant mortality rate in the  
9 country. Struck out every time. Now comes this Governor,  
10 before I ever had a chance to meet with him and sit down, he's  
11 already proposing more money for prenatal care. I think that's  
12 marvelous.

13 I don't like the latest version because it takes  
14 money away from some other equally good program. I know we're  
15 strapped for money.

16 But I'm encouraged by what you say, and I'd like to  
17 continue our discussions.

18 MR. GOULD: I look forward to that.

19 CHAIRMAN ROBERTI: Thank you.

20 One week from today is the 25th, and two weeks from  
21 today is April 1st.

22 SENATOR PETRIS: Are we going to meet on the 25th,  
23 Mr. Chairman?

24 CHAIRMAN ROBERTI: Yes, we're going to meet every  
25 Wednesday.

26 SENATOR PETRIS: It's a holiday. How can we meet?

27 CHAIRMAN ROBERTI: What holiday?  
28



1 SENATOR PETRIS: Greek Independence Day!

2 [Laughter.]

3 CHAIRMAN ROBERTI: How can I forget?

4 SENATOR PETRIS: That's all right. I'll come to  
5 work anyway. It's okay.

6 MS. MICHEL: It's the 25th, then the 1st, then the  
7 8th, and then spring break.

8 CHAIRMAN ROBERTI: We have to reach a resolution by  
9 the first at the very latest.

10 Why don't we negotiate a little bit and have some  
11 conversations and see if this can be resolved.

12 We'll put Mr. Gould's confirmation over on the call  
13 of the Chair.

14 In the meantime, we do have some witnesses here on  
15 Dr. Coye's confirmation, so you get to stay in the hot seat.

16 SENATOR BEVERLY: Mr. Chairman.

17 In connection with the Gould confirmation, I  
18 realize we're putting it over.

19 I'd like to have some information if this is still  
20 going to be an issue about this adjudicatory hearing.

21 CHAIRMAN ROBERTI: Yes, it will be. That's  
22 primarily what it's going to be.

23 I would like to acquaint myself, frankly, on what  
24 all an adjudicatory hearing is.

25 SENATOR BEVERLY: And along with that, what the  
26 obligations under existing law are for the Secretary.

27 CHAIRMAN ROBERTI: Yes, to what extent it's his  
28





1 responsibility. I think that's a point well taken.

2 SENATOR BEVERLY: I think he's carried out his  
3 obligations, and he's asked to go further.

4 CHAIRMAN ROBERTI: Yes, that's a point well taken.  
5 The extent that it's within his jurisdiction.

6 SENATOR BEVERLY: It'll probably be a combination  
7 of Office of Research and Leg. Counsel, I guess.

8 CHAIRMAN ROBERTI: Yes, we will ask SOR and  
9 Legislative Counsel to assist us in this matter.

10 Thank you, Mr. Gould.

11 MR. GOULD: Thank you.

12 CHAIRMAN ROBERTI: I think we'd better take a  
13 break. I promised one by 4:00 o'clock, and it's quarter to  
14 five. We're going to take a five-minute break.

15 Those witnesses who are here on Dr. Coye's  
16 confirmation will be allowed to testify, and then Dr. Coye's  
17 confirmation's going to be put over, too, for any number of  
18 reasons, but the most important is we won't have a chance to  
19 get through everything.

20 So we're going to break for five minutes.

21 [Thereupon a brief recess was taken.]

22 CHAIRMAN ROBERTI: The Committee will come to  
23 order.

24 We now have the confirmation of Dr. Molly Coye,  
25 Director of Health Services before us.

26 Dr. Coye, we'll ask you what we ask all the  
27 Governor's appointees, and that is why you feel you're  
28



1 qualified to assume this position?

2 DR. COYE: Thank you very much for the opportunity  
3 to appear before you. And knowing that it's very late this  
4 afternoon, and there are people who have been waiting for a  
5 long, I'll be very brief.

6 As you know, I'm prepared both in medicine and in  
7 public health. I had my training, including training in  
8 California, in those fields, and I've also worked as the  
9 Director of Health Services -- the title was Commissioner -- in  
10 New Jersey. That gave me extensive experience with an agency  
11 which, admittedly, was smaller, and problems which were smaller  
12 in scale than some of those that I'm facing now.

13 But I've been very pleased to be offered the  
14 opportunity to work with the California Department of Health  
15 and with Governor Wilson. And I believe that we have the  
16 potential for real accomplishments, even in a very difficult  
17 budget period. And I believe that I would be qualified to take  
18 on that responsibility.

19 CHAIRMAN ROBERTI: Very good.

20 Do we have any witnesses here on Dr. Coye's  
21 appointment? Please come forward.

22 MR. SANCHEZ: Thank you for allowing me the  
23 opportunity to speak. My name is Jonathan Sanchez. I'm the  
24 President of the California Hispanic Publishers Association, a  
25 statewide organization of Hispanic community newspapers which  
26 reaches over a million-and-a-half readers weekly.

27 I was President and Chief Operating Officer of  
28



1 Eastern Group Publications, a chain of eight community  
2 bilingual newspaper in East and Northeast Los Angeles.

3 I am not here to oppose the confirmation of  
4 Ms. Coye. I want to make that very clear.

5 I am simply asking for her -- for the delay and an  
6 opportunity to have more dialogue to begin to understand how  
7 she operates, and to assist her in doing outreach in the  
8 Hispanic community. I am quite concerned about that.

9 I have great concerns that I believe need to be  
10 addressed before Dr. Coye is confirmed. Because of the state's  
11 need to reach Hispanics, the largest population group in  
12 California, I felt it was vital that on behalf of my  
13 association, and as a publisher, establish contact with Dr.  
14 Coye as soon as possible after Governor Wilson announced her  
15 selection for this post.

16 However, after many attempts to establish this  
17 contact, the latest yesterday morning, I have become convinced  
18 that Dr. Coye may not -- and I say may not -- be the  
19 appropriate person for this job.

20 Because the members of my association and I are the  
21 only print media reaching almost two million readers per week,  
22 we are the primary source of information to these readers. We  
23 are talking about a population that now comprises almost half  
24 of the population of California. And to deny access to vital  
25 information to these residents should be of concern to all  
26 residents of the state.

27 I believe the health of the future generation of  
28





1 the unborn is at stake. The continued health in the majority  
2 of the state's children is at stake. The primary health of the  
3 working poor is at stake. The public health of the state is at  
4 stake.

5  
6 Yet I have the feeling that Dr. Coye is not fully  
7 aware of the dynamics and the particular needs of the different  
8 Hispanic communities of the State of California. For example,  
9 when I tried to reach Dr. Coye to begin to establish a  
10 relationship between her Department and the members of my  
11 association, to try to begin an educational campaign regarding  
12 her Department's services in the different communities we serve  
13 across the state, I was put off and put off and put off, until  
14 I finally gave up and tried to reach her through other entities  
15 who had similar concerns, and the result was still the same.

16 I believe Dr. Coye doesn't understand that a few  
17 ceremonial appearances here and there throughout the state does  
18 not complete awareness of a community make. In a meeting with  
19 Dr. Coye yesterday, she made several statements which convinced  
20 me of this fact. Statements like, "Well, I believe I've  
21 reached the Los Angeles area's clinics." To be specific, she  
22 was speaking about Altamed Health Services, which is fine.  
23 It's a great clinic.

24 When we mentioned that San Fernando Valley and the  
25 clinics serving that area, and their need to establish a  
26 relationship with her, she said she had picked Los Angeles  
27 because the location was so close to the airport. But the  
28 Valley is served by a major airport, and I'm talking about



1 Burbank. In fact, when you think about it, it takes longer to  
2 go from East Los Angeles to the Valley than it does to fly from  
3 LAX to Sacramento. That's the size of the areas we're talking  
4 about.

5 When discussing outreach methods used -- being used  
6 by Health Services, we suggested print. She said she was quite  
7 happy with the way she was -- she had been doing things, and  
8 that means radio, which in my mind implies Hispanics don't  
9 read. I know that to be untrue.

10 We're talking about a gigantic budget that the  
11 State Department of Health Services set aside for outreach, and  
12 all -- you know, all she cares about is radio. That's fine,  
13 but it's not enough.

14 When I suggested the use of print, she replied that  
15 Health Services doesn't really have a need to publicize  
16 services. Because the Department already has so many people  
17 asking for services, we don't need to do any more outreach.

18 The health problems we face today and the costs to  
19 take care of them are minimal compared to those of tomorrow if  
20 we don't act now.

21 Let me close by reminding everyone that we have a  
22 moral, if not a legal, obligation to give equal access to  
23 information to all residents of California across the board.  
24 It's very scary to me when you're talking about public  
25 hearings, and these people who came forward who are totally  
26 educated, I'm in the media, so I have access to information,  
27 but it scares the heck out of me when I know that my people in  
28



1 my community are not aware of the issues that are going on.  
2 They're not part of the process.

3 By that I mean that vehicles -- we need to begin to  
4 use vehicles that reach those communities. I believe that we  
5 are about the only source of information that these folks have.  
6 They don't read the metropolitan daily newspapers. When you're  
7 talking about holding public hearings on things that are going  
8 -- issues that are going to affect our community, we're leaving  
9 them out. When we're talking about employment opportunity, we  
10 have, I think, suggestions, great suggestions, that might work.

11 In terms -- I'm a small employer. I cannot afford  
12 to give health insurance to my employees. But I have a  
13 suggestion. I believe that if we were to subcontract, or  
14 contract with community-based clinics for primary health care,  
15 it will work. It's got to work, because all it is -- I mean,  
16 what's the worst that could happen to our employees and the  
17 kids? Common cold.

18 The AIM program. The AIM program did not reach  
19 everyone, I'm sorry to say. A lot of people who call my office  
20 do not know. What is this AIM thing?

21 The other thing is that if there are budgets to do  
22 outreach, to do paid advertising, we must use community  
23 newspapers. We must include community newspapers.

24 I want to have -- I guess I have to get dramatic in  
25 order to get Dr. Coye's attention. And I hope to establish  
26 dialogue. Like I said, it's not that I -- I hope she gets  
27 confirmed. But I hope that she begins dialogue in that the --  
28







1 what is being said out in the community is that Dr. Coye has a  
2 cavalier attitude. I don't want to believe that.

3 I want -- I want to make sure that she is open to  
4 dialogue. And I don't see any -- I think she has an excellent  
5 idea, excellent chance to talk to the communities through these  
6 community newspapers, because we have such a relationship, an  
7 intimate relationship with our readers. We're reaching almost  
8 two million readers a week here.

9 So I'm just here, like I said, to delay -- let me  
10 -- I want a chance to be able to talk to Dr. Coye. I want her  
11 to have a chance to address these issues with our publishers,  
12 and thereby, we can begin to give equal access to information  
13 to our readers.

14 Thank you very much for the time.

15 CHAIRMAN ROBERTI: Thank you, Mr. Sanchez.

16 Are there any other witnesses

17 MR. HITCHCOCK: I'll be very brief. My name is  
18 Doug Hitchcock. I'm the Executive Vice President of the  
19 California Association of Hospitals and Health Systems.

20 We feel that Dr. Coye is, by education by  
21 experience, extraordinarily, perhaps uniquely, qualified to  
22 lead the Department of Health Services during these difficult  
23 times. And in the last year, she's shown a real creativity and  
24 a real interest and leadership in health policy and health  
25 financing issues, and I strongly urge her confirmation.

26 Thank you.

27 CHAIRMAN ROBERTI: Thank you very much.  
28



1                   Next witness.

2                   MR. CAREY: Mr. Chairman, Members of the Committee,  
3 my name is Charles Carey. I'm a member of the Executive Board  
4 and currently serve as Vice President of the California  
5 Association of Food and Drug Investigators, which is an  
6 association that represents all peace officers, rank and file  
7 peace officers, that are employed by the Department of Health  
8 Services.

9                   I thought it might be constructive for you to at  
10 least have some input from rank and file people who work for  
11 the State Department of Health Services.

12                  In the time that Dr. Coye has served as Director of  
13 the State Department of Health Services, she has demonstrated a  
14 readiness to meet with and learn from the rank and file  
15 employees who conduct the day-to-day business of the State  
16 Department of Health. This readiness to meet with us, and to  
17 give genuine consideration to our observations and proposals,  
18 is something new to many of us who have a long-standing  
19 relationship in the management-labor business with the State of  
20 California. In fact, it's a significant and exciting departure  
21 from the traditional management-labor, we-they relationship  
22 that we've become accustomed to.

23                  Dr. Coye's willingness to listen and act on the  
24 suggestions of those of us who work at that critical point  
25 where the government is in direct contact with the people  
26 cannot, in our opinion, help but have a positive, long-term  
27 effect on that relationship.  
28



1 Managing the Department of Health Services under  
2 the current budget constraints has certainly been painful to  
3 all of us, but it has forced a healthy examination of programs  
4 and priorities, and remains a fiscal reality we must live with.  
5 Currently our association is working with Dr. Coye and her  
6 staff, exploring ways to improve and even expand public service  
7 and public protection without increased costs, and indeed, with  
8 savings to the taxpayers.

9 Dr. Coye has affirmed in both her words and actions  
10 her strong commitment to public service. Most importantly in  
11 these times of general public disappointment with government,  
12 she has made it perfectly clear that she intends to improve the  
13 responsiveness and the quality of the relationship between the  
14 Department of Health Services and the public we all serve as  
15 public employees.

16 We strongly support Dr. Coye's confirmation, and we  
17 would urge you to make hers a speedy and uncomplicated  
18 confirmation.

19 Thank you for this opportunity to address you.

20 CHAIRMAN ROBERTI: Thank you very much.

21 Are there any other witnesses?

22 Then, Dr. Coye, we'll let you respond, and then  
23 we'll put you over for -- how long did we say, Nancy?

24 MS. MICHEL: You haven't said.

25 CHAIRMAN ROBERTI: On the call of the Chair, but  
26 probably the first week in April.

27 MS. MICHEL: Probably the first week after the  
28







1 break.

2 CHAIRMAN ROBERTI: Yes, the first week after the  
3 Easter break.

4 SENATOR PETRIS: May I just make a brief comment?

5 CHAIRMAN ROBERTI: Yes, Senator Petris.

6 SENATOR PETRIS: I want to let the doctor know that  
7 I'm interested in three areas that I'll be asking you about.  
8 Maybe you can check those out ahead of time.

9 One is the California Occupational Health program,  
10 which came out -- there was legislation I carried in '85, and  
11 I'm interested in what's happening there.

12 Access to health care generally. I've written to  
13 you about that.

14 And the Prop. 99 program, the use of the funds  
15 through the various branches: education, the media, and so  
16 forth.

17 Okay?

18 DR. COYE: Sure.

19 Thank you very much.

20 CHAIRMAN ROBERTI: Fine, Doctor. Anything you  
21 would like to add?

22 DR. COYE: No, I certainly want to thank very much  
23 the people who endorsed me for this position.

24 I'd also like to comment that clearly, in terms of  
25 the first person who offered testimony, that my recollection  
26 differs with much of the recent past, but I'd like to stress  
27 again both the fact that I have extensive experience working  
28



1 with the Hispanic community, farmworker, and other clinic  
2 systems. I'm a strong supporter of primary care, and I do  
3 believe very firmly, and we have shown in a lot of our work in  
4 terms of outreach, that we do believe that the Hispanic  
5 community, the many different Hispanic communities throughout  
6 the state, are a critical target for the Department, an  
7 important piece of our work.

8  
9 CHAIRMAN ROBERTI: And in the next couple of weeks,  
10 if you could just talk to some of the operators of the various  
11 health clinics. I'm sure you do it on a regular basis.

12 DR. COYE: Tomorrow afternoon, I'm meeting for  
13 three hours with some of our best primary care clinic leaders  
14 in the state.

15 CHAIRMAN ROBERTI: That would help the dialogue  
16 along.

17 DR. COYE: Yes.

18 Thank you very much.

19 CHAIRMAN ROBERTI: Thank you, Doctor.

20 Well, if you have nothing more to say, then that's  
21 fine. We'll see you in April.

22 DR. COYE: You'll call me?

23 CHAIRMAN ROBERTI: We'll call you in April  
24 sometime, the Easter --

25 MS. MICHEL: I would be April 22nd.

26 CHAIRMAN ROBERTI: Great, and also for my own  
27 selfish reasons; I have an election to occupy my time. So,  
28 it'll probably be late in April, mid-April or late April. It



1 may be April 22nd, and that's probably going to be the date.

2 DR. COYE: Thank you.

3 CHAIRMAN ROBERTI: Thank you.

4 Mr. William M. Pruitt, Member of the Youthful  
5 Offender Parole Board.

6 Mr. Pruitt, we'll ask you what we ask all the  
7 Governor's appointees, and that's why you feel you're qualified  
8 to assume this position?

9 MR. PRUITT: Mr. Chairman and Members of the  
10 Committee, I believe that my background and experience makes me  
11 uniquely qualified for the position that I am here for today.

12 I have 25 years of experience with the Los Angeles  
13 Police Department, and you don't spend that amount of time with  
14 the Department of that type without having a significant amount  
15 of contact with youthful offenders and being able to gain a  
16 great deal of insight into some of the causes of crime as we  
17 know it today.

18 I not only have been a commanding officer of  
19 detectives and having to enforce crime from the street level,  
20 but as the captain of a patrol division in the San Fernando  
21 Valley, I saw a mandate to meet with the people who have to  
22 live under these types of conditions, to assist them in solving  
23 some of the problems that have to do with youthful offenders.

24 And I bring that expertise to the state government.  
25 I feel that I have a goal to work with the Director of the  
26 Youth Authority, to use this background and experience to help  
27 management government at a more efficient level.  
28





1 In 1988, I came to the state and honed my  
2 management skills further from a state perspective as a deputy  
3 secretary of the correctional agency, and I feel that as  
4 Chairman of the Board, I will continue to work as I have for  
5 the almost past year to try to enhance upon the position that I  
6 believe can help us all make state government a little bit  
7 more effective.

8 CHAIRMAN ROBERTI: Thank you very much.

9 Are there any questions? Is there anyone in the  
10 audience in opposition?

11 Then, Mr. Pruitt, I think you're going to get off  
12 very easy.

13 Do I hear a motion?

14 SENATOR BEVERLY: Move.

15 CHAIRMAN ROBERTI: Senator Beverly moves  
16 confirmation.

17 Secretary will call the roll.

18 SECRETARY WEBB: Senator Beverly.

19 SENATOR BEVERLY: Aye.

20 SECRETARY WEBB: Beverly Aye.

21 Senator Mello.

22 SENATOR MELLO: Aye.

23 SECRETARY WEBB: Mello Aye.

24 Senator Petris.

25 SENATOR PETRIS: Aye.

26 SECRETARY WEBB: Petris Aye.

27 Senator Craven. Senator Roberti.  
28



1 CHAIRMAN ROBERTI: Aye.

2 SECRETARY WEBB: Roberti Aye.

3 CHAIRMAN ROBERTI: The vote is four to zero;  
4 confirmation is recommended to the Floor.

5 Congratulations.

6 MR. PRUITT: Thank you very much.

7 [Thereupon this portion of the  
8 Senate Rules Committee hearing  
9 was terminated at approximately  
10 5:20 P.M.]

11 --oo0oo--  
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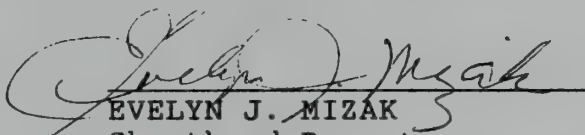
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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 23<sup>rd</sup> day of March, 1992.

  
EVELYN J. MIZAK  
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APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chairman

SENATOR ROBERT BEVERLY

SENATOR NICHOLAS PETRIS

SENATOR HENRY MELLO

MEMBERS ABSENT

SENATOR WILLIAM CRAVEN, Vice Chairman

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

JAMES C. DIAZ, SR., Chief  
Bureau of Collection and Investigative Services

HARRY C. HALLENBECK, State Architect

JAMES H. GOMEZ, Director  
Department of Corrections

SENATOR ROBERT PRESLEY

BARBARA G. SIANEZ, President  
California Visitor Cooperative

PERRY KENNY, Civil Service Division Director  
California State Employees Association

C. B. BRUCE, III, Former Chapter President  
CCPOA

RAY FELDMAN, President  
International Brotherhood of Peace Officers



APPEARANCES (CONTINUED)

E.T. SNELL, aka E.T. the Clown  
Former Inmate, Department of Corrections

DENISE CHACON, Local Chapter President  
Patton State Hospital  
CCPOA



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## P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN ROBERTI: James C. Diaz, Chief, Bureau of Collection and Investigative Services.

Will you please come forward, Mr. Diaz, and we'll ask you what we ask all the Governor's appointees, and that's why you feel qualified to assume this position?

MR. DIAZ: Thank you, Mr. Chairman and Members of the Senate Rules Committee.

Thank you for the opportunity to be here before you to seek confirmation to the position of the Chief of the Bureau of Collection and Investigative Services.

Prior to coming to state government, I have served in a variety of roles in the private and the public sector. As Director of Human Resources, and previously as Director of Executive Services for Pacific Telesis Group, my experience has included managing limited resources in a business environment which demanded awareness of consumer and public policy issues.

I believe each of you have a copy of my remarks.

In addition, public service has played a major role in both my professional and personal life. Most recently as the Chairman and founding Chairman of the Hispanic Community Fund of the Bay Area, Chairman of the City of Cerritos Planning Commission and founding President of the Encinitas Town Council, I've taken an active role in a number of positive developments within my community.

In regards to law enforcement, my experience, I



1 served ten years in a voluntary capacity with the Clayton Police  
2 Department, retiring in last in 1989 as Lieutenant of its  
3 Reserve Division.

4           Some information on the Bureau, what it does. The  
5 Bureau of Collection and Investigative Services is responsible  
6 for licensing and regulating nine major industries. They range  
7 from collection agencies to repossessioners, alarm companies,  
8 private investigators, private patrol operators, and locksmiths.  
9 Since my appointment as Chief, the Bureau has actively pursued a  
10 cost effective, proactive campaign to promote consumer  
11 awareness. We've been an advocate of consumer protection while  
12 maintaining a positive image and an open communication with the  
13 industries which we license and regulate.

14           The Bureau has answered the call for consumer  
15 protection in the security guard industry by taking steps to  
16 upgrade the training criteria for security guards, while at the  
17 same time, providing a more competent and professional industry  
18 standard.

19           The mission of the Department of Consumer Affairs is  
20 to, quote:

21                   "Protect and empower the consumer,  
22                   while supporting a fair and  
23                   competitive marketplace,"

24 unquote. As part of the Department, the Bureau strongly  
25 supports a philosophy that emphasizes public protection. For  
26 example, we recently negotiated with the locksmith industry  
27 changes that will not only set a precedence in the consumer  
28



1 protection area, but will enhance the industry as well.

2 In addition, we are currently working with industry  
3 members representing the collection agencies on statutory  
4 changes which will result in proposed legislation that  
5 emphasizes consumer rights and increased enforcement of  
6 regulatory powers.

7 Finally, I'm honored to be here today before you as  
8 a part of the new generation of consumerism. As a member of  
9 Jim Conran's team on -- of dedicated individuals, I will strive  
10 to successfully implement and reinforce the Department's  
11 commitment to the public. Under my direction, the Bureau will  
12 continue to address and take action on private security and  
13 collection issues affecting the consumer advocates and  
14 residents of California.

15 I thank you, and I'm pleased to answer any of your  
16 questions.

17 CHAIRMAN ROBERTI: Any discussion or debate? Any  
18 questions of Mr. Diaz?

19 Is there any opposition in the audience?

20 Just a second, Mr. Diaz. Now you may be getting  
21 off easy, but I want to make sure I don't miss anything.

22 I don't have any opposition in my file, and I was  
23 looking for it.

24 [Laughter.]

25 CHAIRMAN ROBERTI: I don't have any questions of  
26 Mr. Diaz.

27 Do I hear a motion?  
28





1           SENATOR BEVERLY: Move approval.

2           CHAIRMAN ROBERTI: Senator Beverly moves that  
3 Mr. Diaz's confirmation be recommended to the Floor.

4           Secretary will call the roll.

5           SECRETARY WEBB: Senator Beverly.

6           SENATOR BEVERLY: Aye.

7           SECRETARY WEBB: Beverly Aye.

8           Senator Mello.

9           SENATOR MELLO: Aye.

10          SECRETARY WEBB: Mello Aye.

11          Senator Petris.

12          SENATOR PETRIS: Aye.

13          SECRETARY WEBB: Petris Aye.

14          Senator Craven. Senator Roberti.

15          CHAIRMAN ROBERTI: Aye.

16          SECRETARY WEBB: Roberti Aye.

17          CHAIRMAN ROBERTI: The vote is four to zero;  
18 confirmation is recommended to the Floor.

19          Congratulations.

20          MR. DIAZ: Thank you.

21                   [Thereupon the Rules Committee  
22                   acted upon legislative items  
23                   on the agenda.]

24          CHAIRMAN ROBERTI: The next appointment is James H.  
25 Gomez. We're waiting for Senator Presley.

26                   The next appointment is Harry C. Hallenbeck, State  
27 Architect.  
28



1                   Mr. Hallenbeck, we'll ask you what we ask all the  
2 Governor's appointees, and that is why you feel you're  
3 qualified to assume this position?  
4

5                   MR. HALLENBECK: Yes, thank you. Good afternoon.  
6 I appreciate the opportunity to be here before you, and I hope  
7 that I can answer that question for you.

8                   In preparation for the hearing, I presented my  
9 personal portfolio, which characterizes some 35 years of  
10 private practice as an architect.

11                   I actually started my career in the construction  
12 industry, working for five or six years with various entities  
13 within the construction industry -- a large steel fabricator in  
14 San Francisco; and a builder-developer in the East Bay -- which  
15 gave me a very good and practical understanding of the  
16 construction side, both estimating and design.

17                   Then I returned to architecture and went through  
18 the various firms of internship, evolving eventually to  
19 ownership of my own firm. It has offices in Alameda and in San  
20 Diego.

21                   During the time of some 35 years, I have worked in  
22 projects of almost every imaginable category: individual  
23 houses, multi-family to high rise condos, industrial buildings,  
24 corporate headquarters offices, some schools, and some medical  
25 facilities. So, that's given me a pretty good base of  
26 understanding of both the design and the construction side of  
27 the industry.

28                   Also during my career, I've had the opportunity to



1 be very active in the American Institute of Architects. I have  
2 held most every major office, from local, state, to national.  
3 I had the opportunity as President of the California American  
4 Institute of Architects, the California Council, moving their  
5 state headquarters from San Francisco to Sacramento and setting  
6 up their entire governmental relations program in the early  
7 '80s.

8  
9 After that, I had six years at national as a board  
10 member and Treasurer. I had the opportunity there to work with  
11 and analyze and, in fact, institute significant changes in  
12 their budgetary system, and in their method of delivering  
13 services to their membership. And I think that that, perhaps,  
14 is an effective membership service cost-effectiveness of  
15 operation improvement for a fairly large bureaucratic -- 25  
16 million, 20 million portfolio investments -- and was a  
17 significant effort from their perspective. And it was really a  
18 matter of trying to improve the delivery of services to the  
19 membership. That's probably the reason that the profession  
20 recommended my nomination and appointment.

21 Since coming on board with the state in July, I've  
22 had an opportunity to look at OSA's overall operation in a  
23 general way, and to become intricately involved in some  
24 specific and critical projects, programs, that are going on.

25 My style is relatively hands-on, to get involved in  
26 what's happening and see if we can't find some way of  
27 improving it. My simple overview at this point in time is that  
28 we need a stronger orientation to servicing our clients. I





1 bring that orientation to the Office from my background. I'm  
2 goal-oriented and feel that there's opportunity here, certainly  
3 there's a challenge, and I look forward to being involved in  
4 that.

5 With that, perhaps I could answer some questions  
6 that you might have.

7 CHAIRMAN ROBERTI: Thank you, Mr. Hallenbeck.

8 Are there any questions?

9 Is there any opposition in the audience?

10 SENATOR BEVERLY: I'm prepared to move, Mr.  
11 Chairman.

12 CHAIRMAN ROBERTI: Senator Beverly moves  
13 confirmation be recommended to the Floor.

14 Is there discussion or debate? Hearing none,  
15 Secretary will call the roll.

16 SECRETARY WEBB: Senator Beverly.

17 SENATOR BEVERLY: Aye.

18 SECRETARY WEBB: Beverly Aye.

19 Senator Mello.

20 SENATOR MELLO: Aye.

21 SECRETARY WEBB: Mello Aye.

22 Senator Petris. Senator Craven. Senator Roberti.

23 CHAIRMAN ROBERTI: Aye.

24 SECRETARY WEBB: Roberti Aye.

25 CHAIRMAN ROBERTI: The vote is three to zero;  
26 confirmation is recommended to the Floor.

27 Congratulations.  
28



1 MR. HALLENBECK: Thank you very much.

2 CHAIRMAN ROBERTI: The next appointment is that of  
3 Mr. James H. Gomez, Director of the Department of Corrections.  
4 Senator Presley is here.

5 Will the Sergeant check to see if there is anybody  
6 in the hallway who would like to be here for this confirmation.

7 Mr. Gomez, we'll ask you the same question we ask  
8 all the Governor's appointees, and that is why you feel you're  
9 qualified to assume this position?

10 MR. GOMEZ: Thank you very much.

11 It's a pleasure to come before you today --

12 CHAIRMAN ROBERTI: There's no objection to a  
13 photographer, I take it. So, without objection, Senator Mello  
14 moves and such will be the order.

15 Yes.

16 MR. GOMEZ: I come to you today with 21 years of  
17 governmental experience. I've been in an appointed position  
18 since 1976. I've had the pleasure of being appointed by three  
19 Governors in a row: Governor Jerry Brown in 1978; Governor  
20 Deukmejian in 1983; and Governor Pete Wilson in 1991.

21 I've also been appointed by the Santa Clara County  
22 Executive in 1989.

23 I believe that the kinds of experiences and  
24 background that I possess are those that are needed for the  
25 Director of Corrections. I have a tremendous background in the  
26 area of financial management. I spent nine years in state  
27 government, responsible for a state budget in excess of \$6.5  
28



1 billion.

2  
3 In 1978, Governor Brown appointed me the head  
4 social worker of the State of California. Although my  
5 background was not in social work, I went on to lead the reform  
6 of Children's Services in the State of California, the reform  
7 of In-home Supportive Services for aged, blind, and disabled  
8 citizens in the State of California. That experience gave me a  
9 tremendous insight into the problems and needs of the citizens  
10 of California.

11 in 1983, I was fortunate enough to be selected as  
12 the Chief Deputy Director of the Department of Corrections,  
13 clearly a Department in crisis in 1983. I assumed that job  
14 with 8,000 employees as the Chief Deputy Director and served  
15 under two Directors.

16 From 1983 to 1989, the Department grew from 8,000  
17 employees to 25,000 employees. It grew from 35,000 inmates to  
18 92,000 inmates, a tremendous growth pattern. And I believe as  
19 Chief Deputy Director, I was very much responsible in keeping  
20 that Department from exploding and from a very difficult period  
21 of time.

22 In 1989, I was offered the opportunity to move to  
23 Santa Clara County as the Deputy County Executive for Ms. Sally  
24 Reed, the County Executive in that County, and an opportunity  
25 to serve almost two years as the Deputy County Executive in  
26 Santa Clara County, which I believe also gives me a different  
27 perspective on the requirements for the Department of  
28 Corrections.





1 I think this unique background, coming to the  
2 Department of Corrections as the Director, provides me an  
3 opportunity that few have been afforded in state service. I  
4 believe I possess those qualities of energy, drive, and  
5 commitment that is necessary to direct a 29,000-person  
6 organization.

7 So far, I've been to 22 prisons. I've walked  
8 first, second, and third watch at all hours of the day. I've  
9 been to all four parole regions, shook over 7,000 hands, and  
10 talked to a tremendous number of staff within the Department of  
11 corrections.

12 Within that tour, it points out a tremendous number  
13 of challenges. I believe the reason I came back to Sacramento  
14 was I believe the Department of Corrections has some of the  
15 toughest challenges in all of state government. I have a  
16 philosophy that I'm responsible for public safety as my first  
17 goal. Staff safety is the second goal, and inmate programs is  
18 the third goal. I'm responsible for a \$2.6 billion budget,  
19 29,000 employees, 103,000 inmates, and 85,000 parolees. It's a  
20 tremendous and awesome responsibility. Within that role, I  
21 have responsibilities for doctors, for teachers, for clerical  
22 staff, for 17,000 uniformed staff. And I believe I have the  
23 capacity and capability and the leadership abilities to direct  
24 that mammoth organization.

25 It requires a tremendous amount of budget setting  
26 and priority setting to understand the complexities of the  
27 Department of Corrections.  
28



1 I believe the Department of Corrections in the '80s  
2 will be known as the Department that built the California  
3 prison system. Construction was the key watch-word in the  
4 1980s.

5 In the 1990s, I hope to focus on program  
6 development, communication, and automation for the Department,  
7 to try and bring us into the 1990s.

8 I think you'll find out that a department as large  
9 as the Department of Corrections is much more than a prison  
10 system. I have a health care system, education system, and  
11 those are high priorities to me. I've spent a tremendous  
12 amount of time on medical and psychiatric care, as the  
13 California prison system has had some significant problems in  
14 those areas.

15 I've also spent a tremendous amount of time on  
16 infectious disease. This country is dealing with some of the  
17 most difficult problems in TB, HIV, and communicable diseases  
18 that we have to deal with. In any administrative environment  
19 where we're keeping people 24 hours a day, the complexities of  
20 the infectious disease problem multiply.

21 In 1991, I established a Communicable Disease  
22 Section at a million and a half dollar cost by redirecting  
23 staff, because I felt it was such a significant priority. As  
24 you well know, the state is not awash in money, and I've had to  
25 make those priority decisions out of existing resources.

26 I think another program I'm quite proud of is the  
27 Preventing Parolee Failure Program. In 1989, the Department of  
28



1 Corrections was revoking 67 percent of all parolees to the  
2 Department of Corrections. That is a tremendous cost, but it  
3 also has a good public safety impact. We've been able, through  
4 improved decision making and providing employment counselors  
5 and services in our parole offices, in less than a year and a  
6 half to reduce that to 40 percent, which has had an impact of  
7 savings of over \$40 million on the state General Fund just in  
8 the current year.

9 I've also been also to implement the Bay Area  
10 Services Network Program, the first time that the Department of  
11 Corrections has developed a drug abuse program at the local  
12 level with County Drug and Alcohol Departments. Once again,  
13 it's the kind of program I think is needed for the Department  
14 of Corrections, the size we are, and I think I have the  
15 capacity and capability to implement those kinds of programs.

16 In addition to that, I have a tremendous  
17 responsibility as the number one employer of state government.  
18 With 29,000 employees, I have a tremendous responsibility to  
19 African-Americans, to Hispanics, and to women in this state.  
20 And I think I have the kind of caring and commitment to equal  
21 that challenge. We currently have a workforce in the  
22 Department of Corrections of 16.4 percent Black, and 18 percent  
23 Hispanic. The appointments that I have made in the exempt  
24 positions over the past 11 months represent 17 percent African-  
25 American employees, and 21 percent Hispanic employees.

26 In 150 years in the Department of Corrections,  
27 there has been one woman warden -- in 150 years, there's been  
28





1 one woman warden of a male institution. In 11 months, I've  
2 appointed two women to head a male institution. And I think  
3 that's a move in the right direction.

4 I think what else I bring to this Committee is, I'm  
5 a caring individual. I provide 110 percent all the time, and I  
6 think that makes a difference. I believe I understand the  
7 needs of the majority of line staff, support staff, and  
8 management. And I have a caring enough attitude that I want to  
9 listen, and I want to hear.

10 That does not mean that 29,000 employees agree with  
11 Jim Gomez. I want to make clear they do not.

12 But I believe that I have the capacity and the  
13 leadership capability to direct this Department in that area.

14 I think the issues that we'll be facing most  
15 importantly in the 1990s will be the issues of respect, abuse  
16 of power, and cultural change in the Department of Corrections.  
17 I hope over a five to ten year period to see us as a Department  
18 that cares more about its own staff; that staff treat each  
19 other well, rather than treating each other poorly. The  
20 management staff has a better ability to effectively deal with  
21 each other.

22 I think as a last item, I've implemented a  
23 significant change in compassionate release policy in this  
24 state to deal with individuals who have significant medical  
25 conditions, whether they be AIDS-related, cancer, or otherwise.  
26 At the same time, I've taken into account the needs of victims  
27 in each and every one of these individual circumstances, as the  
28



1 rights of victims are equally important to the rights of those  
2 that have been incarcerated.

3  
4 Lastly, I will say that I'm an administrator. I'm  
5 not a politician. I've been appointed by three separate  
6 Governors.

7 I had the opportunity last night to listen to you  
8 speak at Bob Hanna's retirement. And at that hearing -- at  
9 that retirement, you made a comment, and I bring back to you in  
10 humor. Not many people get a Joint Rules Commendation from  
11 both sides. I proudly display on my wall Joint Rules  
12 legislation -- Joint Rules Number 370, signed by the Honorable  
13 David Roberti and Willie Brown, which reflects to me a  
14 recognition that, as a Director and a nonpolitical individual,  
15 I have the capacity to go over both sides of the aisle and  
16 effectively deal with people.

17 CHAIRMAN ROBERTI: Thanks for reminding me.

18 [Laughter.]

19 MR. GOMEZ: Now I'd like Senator Presley to have an  
20 opportunity to say a few words before I answer any questions  
21 the Committee may have.

22 CHAIRMAN ROBERTI: Senator Presley.

23 SENATOR PRESLEY: Mr. Chairman, how do you get one  
24 of those resolutions? I'll get in line.

25 [Laughter.]

26 SENATOR PRESLEY: I'm here, Mr. Chairman and  
27 Members, in my capacity as Chairman of the Joint Legislative  
28 Prison Committee, which has had oversight over the Department



1 of Corrections, the Youth Authority, and all that, for the last  
2 about 10-12 years now.

3 I first met Mr. Gomez when he was with the  
4 Department of Social Services in the Children's Services area.  
5 I've worked with him in that capacity, and further, then,  
6 through, I guess, a couple of -- at least a couple of wardens  
7 -- Directors, rather, of the Department, and recommended his  
8 appointment to Governor Wilson as Director of Corrections.

9 And having said all that, I had to think quite long  
10 and hard about what my position was going to be when Mr. Gomez  
11 came up for confirmation. And after a good deal of thought on  
12 that, I decided that he merits support, and it's not absolute.  
13 We've had a number of discussions where we think, and other  
14 people think, that things ought to be done better and  
15 differently. And generally Mr. Gomez agrees. But as has been  
16 the problem with directors, it's very, very hard to implement.

17 That's a big bureaucracy; very difficult to deal  
18 with. I sometimes think it would take a Superman to do that  
19 job appropriately.

20 And in addition to the large bureaucracy, and an  
21 entrenched bureaucracy in many cases, that he has to deal with,  
22 his guests are there involuntarily. They don't want to be  
23 there. And he has 102,000 of them, and it's 24 hours a day, 7  
24 days a week. It's a very, very difficult job.

25 So, my feeling is that he's qualified. He's  
26 energetic. He certainly works hard at the job. And I think as  
27 we work with him over the next few years, hopefully, we can  
28





1 make a number of improvements that I, frankly, think need to be  
2 made in the Department of Corrections. It's in need of a lot  
3 of work and a lot of improvement.

4 I wanted to come in my capacity as the Chairman of  
5 that committee to support him, and so that over the next few  
6 years, we can work to continue to improve one of the bigger  
7 bureaucracies, and one that's consuming a big chunk of the  
8 state budget nowadays, and one we're all concerned about.

9 CHAIRMAN ROBERTI: No question about it.

10 SENATOR PRESLEY: I think he's a Director that will  
11 do well with everyone's help. He needs a lot of help. This is  
12 a very difficult job.

13 CHAIRMAN ROBERTI: Thank you, Senator Presley.

14 I think what we're going to do is, we're going to  
15 break for five minutes, then we'll have a whole host of  
16 questions for you, Mr. Gomez.

17 The Senate Rules Committee is recessed for five  
18 minutes.

19 [Thereupon a brief recess was taken.]

20 CHAIRMAN ROBERTI: The Senate Rules Committee will  
21 reconvene.

22 We are hearing the appointment of James H. Gomez as  
23 Director of the Department of Corrections.

24 Mr. Gomez, there have been some concerns about the  
25 implementation of the Prison Inmate Labor Initiative of 1990,  
26 which, I might point out, I didn't support, but it's the law of  
27 the land and we have to make sure it's implemented.  
28



1                   How many private enterprises have taken advantage  
2 of this opportunity?

3                   MR. GOMEZ: We have three currently. We have one  
4 at Tower Communications at CRC. It's a phone answering service  
5 working out of the Los Angeles area.

6                   We have one at San Quentin and one at Folsom, both  
7 coming up dealing with data processing.

8                   In addition to that, we have one that's close to  
9 contract which is a glass manufacturer at CIM.

10                  At this point in time, it's less than 100 jobs that  
11 we're talking about, but given the economic conditions that we  
12 are in, it's a very difficult time -- period of time to be  
13 doing job development. But I think that we've been somewhat  
14 successful in bringing in data processing and communication  
15 groups, and we also have able at CRC to present quite a few  
16 checks to victims' groups down there, which comes from the  
17 restitution component of that.

18                  CHAIRMAN ROBERTI: Can you tell me roughly how many  
19 jobs?

20                  MR. GOMEZ: About 50 right now, but it will be a  
21 hundred within probably a month or two.

22                  CHAIRMAN ROBERTI: What is your goal, say, by the  
23 end of the year?

24                  MR. GOMEZ: I don't have a specific goal. I would  
25 really like to see a thousand jobs within a four-year period.  
26 It's been a longer range goal.

27                  I am optimistic that, as economic conditions  
28



1 change, and the labor force is not in such -- such large supply  
2 out in the street, that at that time we may be more in demand.

3 But with the current economic conditions, the  
4 demand -- there's so many unemployed people out there, that  
5 they're finding a full labor force.

6 CHAIRMAN ROBERTI: Is that pretty much dispersed  
7 among the various prisons, where the jobs are?

8 MR. GOMEZ: No, it appears that the -- that so far,  
9 the concentration is centering around the Los Angeles, the Bay  
10 Area, and Sacramento. Most of the remote locations, private  
11 industry is not coming in, and it's not really enamored at all  
12 with either Pelican Bay, or Chuckawalla, or Avenal. Those  
13 facilities are 200-300 miles away from metropolitan centers.  
14 Because of distance of transportation, you're seeing very  
15 little interest in those areas.

16 CHAIRMAN ROBERTI: Are there any other questions?  
17 Is there anyone here in support? How about  
18 opposition?

19 FROM THE AUDIENCE: Can we have a neutral category?

20 CHAIRMAN ROBERTI: Yes, we often do, yes. They  
21 usually come up with opposition, but we understand.

22 Why don't we do that first, people who want to  
23 evidence concerns.

24 MS. SIANEZ: Good afternoon. My name is Barbara  
25 Sianez. I'm with the California Visitor Cooperative -- I'm the  
26 President -- also known as CVC.

27 Our organization is devoted to improving the  
28





1 experience of visiting those loved ones in our California State  
2 Prisons. Our method of doing this is by educating visitors as  
3 to their rights and proper recourse within the Department of  
4 Corrections.

5 As our name implies, we strive to cooperate with  
6 members of the Department of Corrections, and we encourage  
7 others to do so in hopes to make the visiting process an easier  
8 one.

9 CVC has existing now for one year, and  
10 unfortunately, we have met with opposition from a few  
11 institutions. For instance, Folsom State Prison has denied our  
12 request for distributing our monthly newsletters and literature  
13 in the visitor parking lot. This would be after visiting  
14 hours. It was stated that it would possibly be disruptive to  
15 normal operations.

16 We feel this is a denial of our rights under the  
17 First Amendment and other fundamental rights protected by the  
18 Constitution and may cause unnecessary litigation to resolve.

19 Mr. Gomez, as a group of concerned families and  
20 friends of prisoners, we sincerely hope that the recognition of  
21 the extreme value of visiting will discourage you in seeking  
22 any monetary relief by cutting back visiting hours any further.  
23 Instead, this vital program desperately needs to be expanded on  
24 and encouraged. After all, it is one of the most effective  
25 programs that CDC offers that contributes to positive prison  
26 behavior and community ties for successful parole.

27 We look forward to an open door policy with you,  
28



1 and I would like to leave you a few samples of our newsletter.

2 CHAIRMAN ROBERTI: Could you respond?

3 MR. GOMEZ: Yes.

4 I'm a supporter of the visiting program. I always  
5 have been, and I always will be.

6 The issue of distributing the newsletters is news  
7 to me, and I'll take a look at it and get back to her.

8 On the issue of further cuts, I'm a very plain-  
9 spoken man. If I get unallocated cuts, I will cut visiting. I  
10 will cut academic education. I will cut medical. I will cut  
11 everything that I have to.

12 I took \$140 million budget cut last year, and I did  
13 not cut visiting. I did not cut medical. I cut and  
14 eliminated over 600 jobs. I postponed opening two prisons.

15 But I need to be very clear with Senate Rules and  
16 any other committee, and my budget committees that I testify,  
17 if I take further unallocated cuts, I have no choice but to cut  
18 back on those areas that I believe I have some flexibility.

19 CHAIRMAN ROBERTI: Last year you didn't take any  
20 cuts in --

21 MR. GOMEZ: Visiting, no. But I got -- I'm honest  
22 with you. I am on the edge. I believe I have taken this  
23 Department, in terms of safety and security, very close to the  
24 edge.

25 I understand the need for visiting. I'm very  
26 supportive of visiting. I think it's a very good outlet for  
27 the inmates. It's very good to have their family connections,  
28



1 and it's positive for re-integration back into our society.

2 But if I get specific cuts, I can deal with it. If  
3 I get \$110 unallocated reduction in my budget in a conference  
4 committee, telling me, "Do whatever you need to do, but do it,"  
5 I've been telling my budget committees and everywhere else,  
6 those kind of reductions are going to have to be taken out of  
7 program areas.

8 So, I want to be clear. I have no intent. The  
9 Governor's budget as it currently exists has no reductions to  
10 visiting. I have proposed none. I do propose none.

11 But in the event that some unallocated cuts come  
12 out of the sky, I will have to deal with that issue. Visiting  
13 will be a program that I will have to look at.

14 We currently offer visiting in most institutions  
15 five days a week. CYA and most institutions offers it two days  
16 a week.

17 I would have to look at peeling back a day here, a  
18 day there. I would have to look at -- urban locations tend to  
19 have much heavier visiting -- the Folsom Prisons, the  
20 Vacavilles, the San Quentins -- heavy visiting. The rural  
21 locations -- Pelican Bay, Chuckawalla -- much light visiting.  
22 So, I would probably look, from a budgetary standpoint, of  
23 cutting at the rural locations first.

24 But I should add, the cost of visiting is the cost  
25 of custody staff. We have to have custody staff to process  
26 people in, custody staff that watch the visiting. And when I  
27 talk about cutting visiting, what I'd be talking about is  
28





1 eliminating those posts and those jobs from a certain day  
2 because of the cost of them.

3 CHAIRMAN ROBERTI: Fine. Thank you very much.

4 Do you have any other observations?

5 MS. SIANEZ: It's my understanding that staff would  
6 not be eliminated but put elsewhere in the institution,  
7 correct? Because they are protected as far as their jobs.

8 MR. GOMEZ: I have over -- they are nnot protected  
9 as far as their jobs.

10 I have almost 2800 vacancies in the Department of  
11 Corrections. If I take a significant budget reduction coming  
12 up, I will be in a layoff position. I will be in a layoff  
13 position for correctional officers; I'll be in a layoff  
14 position for teachers; I'll be in a layoff position for  
15 clerical staff.

16 CHAIRMAN ROBERTI: What is the normal visiting,  
17 say, at Folsom? What is the normal?

18 MR. GOMEZ: Five days a week, about a six-hour day.

19 CHAIRMAN ROBERTI: So, five days a week for a six-  
20 hour period?

21 MR. GOMEZ: Yes.

22 And most of our institutions, our new institutions,  
23 they have four or five visiting rooms, because they're built in  
24 facilities. They're huge, huge prisons. And so, I need  
25 typically three to four staff for each one of those visiting  
26 areas: one to do searches as they come in; one to check for  
27 the appropriateness of whether they have clearance or not; one  
28



1 for custody. We also have family visiting going on in the  
2 trailers during the weekends where I have staff monitoring  
3 those.

4 When those positions are cut, people say, "Oh,  
5 those are correctional officers." Those aren't correctional --  
6 those are correctional officers providing a program service.  
7 And if I have to make those kind of reductions, I'll have to  
8 take a look at providing correctional officers providing  
9 program services.

10 MS. SIANEZ: I would like to point out that I've  
11 been visiting for the past eleven years, and when I first  
12 started out, we had seven-day a week visiting.

13 It must be noted that when prisoners work, they're  
14 under the Work Incentive Program. They get two days off of  
15 that week, and that's by the design of that job, not by the  
16 family's ability to be there, and so it does present a hardship  
17 when, say, Pelican Bay or Tehachapi is limited to weekend-only.  
18 It pretty much takes away that incentive to work because that  
19 means not seeing your family.

20 MR. GOMEZ: I fully understand. I just want to be  
21 honest in terms of letting you know that if those kind of  
22 budget reductions take place, and I don't want to assure this  
23 Committee they're not going to, I have to react to it.

24 Last year I was given it all unallocated, with no,  
25 "cut this; cut that," just "do whatever you need to do, and  
26 tell us about it later."

27 I did that, and made all those policy choices and  
28



1 priority decisions, and I will stand behind them. But it makes  
2 it very difficult when you need -- when you have those programs  
3 that are existing.

4 CHAIRMAN ROBERTI: I think it's important for us to  
5 hear, because it puts a perspective on things we don't normally  
6 hear.

7 Thank you very much.

8 MS. SIANEZ: Thank you.

9 CHAIRMAN ROBERTI: Yes, next.

10 MR. KENNY: Good afternoon again. It's late.

11 Mr. Chairman and Committee Members, my name is  
12 Perry Kenny. I speak on behalf of 5700 employees in the  
13 Department of Corrections who are represented by the state --  
14 California State Employees Association. I presently serve as  
15 the Civil Service Division Director, and also I work in the  
16 Department of Corrections in my regular job as a state prison  
17 teacher at North Facility.

18 Director Gomez and I share a unique relationship.  
19 As a correctional educator, he is my department director at my  
20 regular work site.

21 My concerns about Mr. Gomez, or any other Director  
22 of CDC, are rooted in my direct knowledge of prisons, and in  
23 the experience our union has had in working to improve  
24 conditions for our correctional employees.

25 I want to thank at this time the Senate Rules  
26 Committee for allowing me this opportunity to state for the  
27 record our union's position regarding the confirmation of  
28





1 Mr. Gomez.

2 CSEA has specific concerns about this Director and  
3 the direction that Corrections has been heading since his  
4 appointment last year. I've met with Mr. Gomez on more than  
5 one occasion, and we've had very cooperative, meaningful  
6 conversations. While we are optimistic about his recent  
7 willingness to discuss education reform and his overall view of  
8 employees in the Department with CSEA, there are still a number  
9 of troubling development have have occurred on his watch.

10 To date, these concerns revolve around, number one,  
11 the elimination of some correctional education programs; the  
12 spread of tuberculosis in prisons; and the illegal restrictions  
13 put on CSEA's access to its own members employed by  
14 Corrections. Let me elaborate on these issues.

15 To begin with, education. In conversation with  
16 Mr. Gomez, he has declared support for the education program,  
17 yet we must ask what is Mr. Gomez's true commitment to prison  
18 education?

19 Under former Corrections Director James Rowland,  
20 CSEA worked in a labor/management coalition to develop and  
21 implement an innovative prison education program called  
22 Personal Responsibility Curriculum, known by the acronym PERC.  
23 This prison education program appeared to have great potential,  
24 but since with the end of Mr. Rowland's tenure as Director of  
25 Corrections, the PERC program has been delayed and relatively  
26 is dead in the water at the present time.

27 In a more recent meeting with Mr. Gomez, he told me  
28



1 he would support reviving the PERC program at -- in at least  
2 one prison. We feel the go-slow approach -- this go-slow  
3 approach will eventually subvert and undermine the potential  
4 effectiveness of this program.

5         The need to rehabilitate California prison inmates  
6 in its vastly overcrowded, high cost system requires very  
7 aggressive action. The PERC program is an educational process  
8 whereby inmates learn how to think, how to break their cycle of  
9 violence, and become productive citizens. PERC is based on a  
10 prison education program developed in Canada, and this Canadian  
11 program has proven to be very effective. It slashed recidivism  
12 there in that country.

13         The PERC program is dynamic, and we believe it  
14 needs direct, hands-on support for its true success. The high  
15 recidivism that presently exists in our prisons costs  
16 California precious funds, a crucial issue, especially in this  
17 recurring budget crisis that we face. And that's a fact. Yet,  
18 according to the Department of Finance, only 25 percent of the  
19 Department of Corrections' operating budget of nearly \$2.5  
20 billion is spent on the prison education programs.

21         We understand that money is tight, and that we're  
22 in a deficit situation, but we seriously have to ask whether  
23 the present Corrections' policy is committed to expanding the  
24 education programs that, in the long run, save taxpayers' money  
25 as inmates receive the benefit of a solid, revolutionary,  
26 rehabilitation education program.

27         For example, the Department of Corrections has just  
28



1 eliminated a successful ten-year old vocational program at  
2 Soledad Prison, a program that taught inmates new skills, body  
3 and fender program, that they could use to find jobs in the  
4 real world, thereby relieving the financial burden on the  
5 citizens. Through this program, they were able to stay out of  
6 prison, and the elimination just doesn't make sense to us.

7  
8 We believe the current Corrections' education  
9 program is under-funded and under-staffed. In the past nine  
10 years since I've been in Corrections, the average class size  
11 has doubled, so the ratio is 24-1: one teacher to 24 inmates  
12 per class. Paperwork, of course, has multiplied, leaving less  
13 time for the actual education process, reducing the opportunity  
14 for meaningful correctional education.

15 On the issue of TB in prisons, earlier this month,  
16 CSEA learned that 19 workers in Susanville State Prison tested  
17 positive for tuberculosis. We have a serious TB problem at CIW  
18 as well. We're concerned what Mr. Gomez is doing about this  
19 rising disease crisis. We question whether the new  
20 Corrections' TB screening program for prisoners and employees  
21 is moving fast enough in light of this major health concern  
22 with the employees and inmates.

23 Last year, at least three employees at Folsom  
24 tested positive for TB after workers had complained that one  
25 inmate fell ill of TB infection at Folsom. The Folsom warden  
26 admitted that faulty ventilation affected the TB incident.

27 On the access restriction, does the Director and  
28 Corrections administration fully understand the labor rights of





1 unions to freely voice opposition to the Governor's contract,  
2 bargaining positions, and take-away demands, and the rights of  
3 the union to freely have access to our members?  
4

5 During Mr. Gomez's watch, Corrections Chief Deputy  
6 Director Denninger issued two memos as directives to all  
7 wardens: one in December, 1991, and a second in January, 1992.  
8 The first banned strike-related buttons or clothing. His  
9 premise was based on the truly far-fetched notion that these  
10 buttons and clothing articles might incite inmates to become  
11 violent.

12 I think I have a copy of that button with me. This  
13 is in fact the button that was worn, and T-shirts that say the  
14 same thing: "I don't want to strike but I will."

15 The other memo singled out CSEA and banned the  
16 union from holding meetings at CDC facilities. Our union,  
17 CSEA, has filed unfair labor practice charges as a result of  
18 those memos, and we are awaiting a hearing at the present time.  
19 The question is, did Mr. Gomez approve these memos? We don't  
20 know.

21 We don't think these types of rigid attempts to  
22 control our union rights promote the kind of good labor  
23 relations that can benefit the Department of Corrections, its  
24 workers, or the state.

25 In closing, I urge the Senate Rules Committee to  
26 take a careful look at this appointment on behalf of the 5700  
27 employees that we represent. CSEA has done so and has come  
28 away with more questions than answers.



1 Thank you for the opportunity to testify.

2 CHAIRMAN ROBERTI: Thank you very much.

3 MR. GOMEZ: Just briefly to address those issues.

4 I guess the one that bothers me the most is the  
5 PERC program. I met with Perry Kenny and Andy Shockeron about  
6 a month ago. And at that meeting, they recommended a go-slow  
7 approach. They recommended a one pilot or two pilot, and  
8 that's what we are going to be doing.

9 So, I'm a little concerned that at that meeting it  
10 was recommended that we have a go-slow approach, and that we do  
11 a real thorough evaluation. That is the direction we're  
12 heading in the PERC program.

13 Relative to vocational education, and once again,  
14 let me give you some numbers. Last year, I reduced 29  
15 positions in vocation -- in education: 17 in academic and 12  
16 in vocation. The program that Perry talks about was part of  
17 the cut in the Soledad vocational program. I cut over 600  
18 positions in the Department.

19 In the year prior, and the Director of Corrections  
20 at that time, Jim Rowland, had an 800 position cut. He cut 80  
21 positions, 10 percent. I cut CSEA teachers by 5 percent,  
22 because I have a commitment to education, and the best way I  
23 can demonstrate my commitment is to make as little cut as  
24 possible in positions.

25 I felt that 29 positions was about -- less than  
26 half of what happened the year before and was responsible  
27 management. I reviewed each and every one of those positions  
28



1 personally on a weekend. I went through over a thousand  
2 position cuts in the Department, and I made some changes to  
3 have only 29 positions cut.  
4

5 I understand Mr. Kenny's concern that money is  
6 tight. But I get what the Legislature gives me, and I have to  
7 deal with that issue.

8 I do not like cutting education. I hope not to cut  
9 education at all this year, but only the budget process will  
10 give me a fair perspective.

11 On the issue of TB, their concern is legitimate. I  
12 have equal concern if not more than Mr. Kenny expresses. We're  
13 looking at potential mandatory testing for 103,000 inmates and  
14 30,000 staff in the next two to three months as a potential.  
15 We have issue papers and analysis being presented to me where  
16 we may have to test every single departmental employee and  
17 every single inmate.

18 Testing positive for TB is not necessarily a  
19 problem. I test positive for TB today, but I don't have active  
20 TB. I'm not infectious.

21 CHAIRMAN ROBERTI: Thank you. Thank you for  
22 telling us.

23 [Laughter.]

24 MR. GOMEZ: I say that because people react to TB  
25 very dangerously. I've had it in my family. I think I have an  
26 understanding of it.

27 Being -- having a PPD positive is just an  
28 indication that you've been exposed to TB. It does not mean





1 you have an active case.

2 But we have a problem, as I said in my opening  
3 remarks. TB is a national issue. If you look at the March  
4 16th Newsweek, the whole article, the whole front page says,  
5 "TB", with a chest x-ray. It predicts that in the United  
6 States, we'll have TB sanitariums in operation throughout this  
7 nation in the late 1900s. It predicts, with the Third World  
8 migration that's come in, and the health conditions of people  
9 coming from Third World countries and the super TB strain, that  
10 we could have a significant, a significant, massive problem in  
11 the nation, and California would be part of that.

12 So, I really understand his concerns. As I said  
13 earlier, I have redirected 25 positions and a million and a  
14 half dollars.

15 If I believe tomorrow that a million dollars will  
16 make the difference, I'll redirect another million dollars to  
17 that issue. It's a public health issue; it's not a  
18 Corrections' issue. And I have a responsibility to the public  
19 health of the State of California. We have people coming in  
20 and out everyday.

21 I've met with the Department of Health Services. I  
22 took each and every recommendation that George Rutherford gave  
23 us. I met with the Centers for Disease Control from Atlanta,  
24 and took every recommendation from the Centers for Disease  
25 Control.

26 We are committed to the issue of dealing with TB.  
27 And if we're not aggressive on the issue, if we are not  
28



1 aggressive on the issue, it'll get worse. And I say that  
2 because it's an important issue.

3           The last issue in terms of access, I understand  
4 Mr. Kenny's concerns. There have been some access problems.  
5 There have been some meetings with Chuck Tate of his staff  
6 recently, and I think the access issues will work themselves  
7 out in the near future.

8           But there were some problems. And the way we  
9 perceived and the Department of Personnel Administration  
10 perceived, and on this issue, I take the lead from DOPA, they  
11 felt that the issues that had taken place were above and beyond  
12 those contractual obligations that we have.

13           But I feel comfortable that over the next month or  
14 two, we'll work those issues out. Two meetings have taken  
15 place, and I feel comfortable that reasonable people will come  
16 up with a reasonable solution.

17           CHAIRMAN ROBERTI: Senator Mello.

18           SENATOR MELLO: Soledad was an issue in my district  
19 down there.

20           The question, 29 cuts you made in one category, and  
21 the 5 percent, was Soledad cut disproportionately, or was it  
22 along with the same level of cuts of every institution in the  
23 state?

24           MR. GOMEZ: It was cut proportionately in total  
25 positions, but disproportionately in terms of education.

26           They took more educational cuts than any other  
27 institution in the state. The warden felt --  
28



1           SENATOR MELLO: When you say "they" --

2           MR. GOMEZ: CTF. The warden made --

3           SENATOR MELLO: "They" is you, and when you say  
4 "they", you're the one. I think the way the cuts were made  
5 last year by the Budget Committee, they delegated to the  
6 Department of Corrections to go ahead and install their own  
7 cuts.

8           MR. GOMEZ: That's correct.

9           SENATOR MELLO: So, the Department of Corrections,  
10 then, are the ones that made these cutbacks.

11          MR. GOMEZ: I'm clearly responsible for it.

12          I -- what I was trying to tell you, each  
13 institution made proposals to me of what they thought they  
14 should cut. That particular institution recommended more  
15 educational cuts than any other institution.

16          I did not accept all their cuts, but when I  
17 reviewed their data, they have a very strong academic-  
18 vocational program at Soledad in comparison to many other  
19 institutions. They have had a history of a fairly good program  
20 down there. And I felt, given the cuts that they had to take,  
21 that they could -- they could take those in academic and  
22 vocation.

23          I certainly have to tell you, I didn't enjoy that  
24 then; I don't enjoy that today.

25          SENATOR MELLO: I know your philosophy on  
26 education. I think that it's got to be the answer to people.  
27 It's been proven time and time again. People who come in and  
28





1 get an education, GED, or even in the college courses that  
2 we're teaching down there, they leave there with a college  
3 degree in their hands, the recidivism rate just about  
4 disappears with those persons.

5 And in Soledad, we have lost a lot because of the  
6 overcrowding. We have lost classrooms, we've lost vocational  
7 classrooms and others. We've cut into the hospital wards and  
8 took way spaces there to put cells and beds in there for  
9 inmates when we were up to 6200-6300.

10 I hope we get those back now with the expansion  
11 being planned and recommit ourselves to the education part of  
12 it.

13 MR. GOMEZ: I understand.

14 SENATOR MELLO: The second thing, I don't think we  
15 ironed out the access. I know the problems you have, but I  
16 think under rules of unions having the right to have access, I  
17 know the Farm Labor Act, they've had it in other general union  
18 agreements, not even a union agreement. People can just have  
19 access at normal hours, like during the lunch hour, before and  
20 afterward to come in.

21 So, I guess the issue here is, does your plan  
22 vision that they will have access on this reasonable basis?

23 MR. GOMEZ: Yes, on a reasonable basis, certainly.  
24 I think they ought to have access. I think the law gives them  
25 that right. I think they ought to have it even if the law  
26 didn't give it to them.

27 It's a matter of, in a couple of institutions, we  
28



1 believe -- and I was provided information that said that they  
2 were far exceeding what a reasonable access was in terms of  
3 calling a meeting for one issue, and then a strike and other  
4 issues material that our Department of Personnel Administration  
5 felt went beyond what should have happened.  
6

7 And I got my expertise and my information from the  
8 Department of Personnel Administration that this clearly  
9 wasn't a Corrections "let's go after CSEA" issue. I don't  
10 desire to go after CSEA.

11 SENATOR MELLO: Also, you wrote them two letters  
12 saying that they could not use the facilities.

13 MR. GOMEZ: We have since met with them, and I  
14 think as recently as March 11th, and they have had access back  
15 in some facilities and it's coming back to the other  
16 facilities.

17 I think Chuck Tate of his staff has met with Carol  
18 Cahalia of my staff. I think the most recent meeting was --  
19 well, the letter was March 11th, and Virginia Guadiana wrote  
20 the letter. And it appears that we are working our way away  
21 from this problem, from my perspective. I hope CSEA feels  
22 we're working our way away from this problem also.

23 SENATOR MELLO: Okay, thank you.

24 CHAIRMAN ROBERTI: Thank you very much.

25 Next witness, please.

26 MR. BRUCE: Good afternoon. My name is Bruce III.

27 In 1989, I had seven officers wrongfully terminated  
28 at CIM.



1                   CHAIRMAN ROBERTI: What was your position?

2                   MR. BRUCE: At that particular time, I was the  
3 Chapter President for CCPOA at CIM.

4                   Mr. Rowland, in his time as Director, reinstated  
5 all of these officers with the exception of two. Prior to him  
6 losing his position as the Director, he was working on  
7 reinstating those two officers. However, he did not have the  
8 opportunity to do so.

9                   At this point, Mr. Gomez became Director. I met  
10 with Mr. Gomez at -- on his first Director's meeting. I  
11 personally hand-walked copies of both these men's cases into  
12 him, asked him at that Director's meeting to review these  
13 cases, that I felt that they -- that these people were  
14 wrongfully terminated.

15                  Mr. Gomez got back to me approximately two weeks  
16 later, indicating that he felt after reviewing them that, had  
17 he been the Director at the time, they would not have been  
18 terminated. He indicated that he was not going to, quote,  
19 "allow me to bury his ass in personnel problems."

20                  I told him at that time that I felt that that was  
21 kind of an unusual statement to be made, since I couldn't get  
22 the warden at CIM at that time to do his job properly.

23                  Since then, I've been trying -- Senator Presley,  
24 Senator Ayala, all these people have reviewed these people's  
25 cases. Everyone has indicated and felt that the two staff  
26 members were wrongfully terminated.

27                  Mr. Gomez indicated earlier in his presentation  
28





1 that he was a caring Director. I'm wondering, has he changed?  
2 Is he now willing to work toward correcting a wrong that he  
3 indicated to me and Jack Meola, the State Vice President of the  
4 CCPOA, that he felt that these people were wrongfully  
5 terminated, but that he wasn't going to intervene into it?

6 I'd like to know has he in fact changed? Is he  
7 going to take some corrective measure?

8 MR. GOMEZ: Mr. Bruce the Third must have heard a  
9 different conversation than the one I did.

10 I told him that I would get back to him within 30  
11 days on those two cases. Everything he said up to the point he  
12 provided me a stack of material, I would think, that was this  
13 high?

14 MR. BRUCE: Pretty close.

15 MR. GOMEZ: I read over 700 pages of material  
16 because he asked me personally to review those two cases.

17 After reading that 700 pages of material, I called  
18 him, and I told him I would take no different action than the  
19 former Director did. They've been terminated; they should stay  
20 that way.

21 Anything to the contrary is just not true. I told  
22 him at that point in time, I reviewed the cases, and I was  
23 going to make no different decision.

24 I never said that I would -- that these men  
25 deserved, or women deserved their jobs back, as he indicated.  
26 I spent the time and effort to review 700 pages of personnel  
27 files and found them to be appropriately terminated based on  
28



1 the documentation I had.

2 CHAIRMAN ROBERTI: Has any personnel action been  
3 taken in regards to these terminations?

4 MR. GOMEZ: They had been terminated before I was  
5 Director.

6 CHAIRMAN ROBERTI: I do understand that, but did  
7 they take subsequent personnel action?

8 MR. GOMEZ: I think they appealed to the Personnel  
9 Board and did not win in the Personnel Board.

10 MR. BRUCE: The State Personnel Board, sir, is such  
11 a big fantasy, it's a La-La Land in itself. That, if we were  
12 seriously interested in cutting this budget and saving money,  
13 we'd start with the SPB. That's a joke in itself.

14 They co-sign and stamp whatever warden -- whatever  
15 the decision the warden is wanting to do at the time. That's  
16 the program that I feel seriously should be looked into.

17 On the matter of this discrepancy between what I  
18 supposedly heard by Mr. Gomez, I believe that this could be  
19 verified by Jack Meola, the State Vice President. I believe  
20 he's in the audience.

21 I wouldn't have any reason to stretch the truth,  
22 let's say, concerning these two individuals. I've been trying  
23 to see what my possibilities would be of getting these people  
24 reinstated for the last over three and a half years because I  
25 gave me word to them.

26 CHAIRMAN ROBERTI: Any other questions? I don't  
27 have any others.



1 Thank you very much.

2 MR. BRUCE: Yes, sir, thank you.

3 CHAIRMAN ROBERTI: Next witness, please.

4 MR. FELDMAN: Good afternoon, ladies and gentlemen  
5 of the Committee. My name is Ray Feldman. I'm a correctional  
6 officer at the California Rehabilitation Center in Norco.

7 I've been an officer now for 20 years. I'm here on  
8 behalf of the organization that I'm a President of, the  
9 International Brotherhood of Peace Officers, which is a small  
10 organization consisting of correctional officers and other  
11 peace officers. They're growing steadily.

12 We're here today representing our membership and  
13 other concerned line staff in opposing the confirmation of  
14 Mr. James Gomez as California Department of Corrections  
15 Director.

16 Now that Mr. Gomez has shown you what a kinder,  
17 gentler Department he has, I'd like to show you some of the  
18 things that are going on in the Department.

19 The following are some, but not all, of the  
20 reasons, and we're just the tip of the iceberg as to our  
21 objections and concerns.

22 As is evidenced by documents presented to you by me  
23 recently, which are a very small portion of the documents and  
24 testimony that we have, we feel that Mr. Gomez is not  
25 interested in our welfare, nor seeing to it that his Department  
26 operates justly.

27 Even when presented with evidence showing  
28





1 injustices, which in some cases have already been investigated  
2 by his predecessor, he ignores the finding and allows it to  
3 continue. His staff has refused to honor signed agreements as  
4 well as agreements already reached by his predecessor.  
5

6 Mr. Gomez was made aware both in writing and in  
7 verbally of disparate, unjust treatment and discriminatory  
8 application and use of the adverse action system and did not  
9 respond in any meaningful manner, and in some cases, not at  
10 all. He has allowed some of his deputy directors,  
11 administrators, and supervisors to use the adverse action  
12 system for their own personal vendettas against employees.  
13 This is evidenced by the numerous cases of adverse actions that  
14 have been overturned, thrown out, and proven to be unfounded.  
15 It's also attested to in recent Senate hearings held by this --  
16 on this very subject, resulting in proposed new legislation by  
17 Senator Robert Presley and Assemblyman Floyd.

18 This is also made very clear when comparing adverse  
19 actions, or rather the lack of it, dealing with misconduct by  
20 supervisors and administrators. The extent of favoritism and  
21 disparate treatment they receive as compared with line staff  
22 personnel in adverse actions very quickly surfaces and becomes  
23 apparent when examined.

24 When you have a deputy director in charge of  
25 adverse actions and approving those actions without even  
26 reading them, thereby allowing innocent people to be  
27 terminated, suspended, lose their pay, and their families  
28 destroyed, and then this person gets promoted, something is



1 very wrong here.

2 When you have a warden who illegally wiretaps,  
3 monitors, and distorts, and then uses those recordings to fire  
4 four innocent officers, then giving this person a promotion to  
5 a nice new prison, something is very wrong here.

6 Promoting the captain of investigations at this  
7 institution after that incident shows there's something very  
8 wrong here.

9 When you have a warden who comes on the prison  
10 grounds with a firearm, and an inmate finds it, yet he gets no  
11 adverse action, something is very wrong here.

12 When CDC administrators ignore, refuse to honor,  
13 and reject signed settlement agreements, causing an employee to  
14 lose four and a half years' worth of promotional opportunities,  
15 something is very wrong here.

16 When administrators fire, suspend and abuse line  
17 staff for offense much less severe than the ones they  
18 themselves are guilty of, something is very wrong here.

19 When the officers are more afraid and apprehensive  
20 about the administration stabbing them in the back than the  
21 very convicts they work with everyday, something is very wrong  
22 here.

23 When a Director of Corrections tells a union  
24 representative he does not and will not be bothered with  
25 personnel problems, there's something very wrong here.

26 When a Director appoints an adverse action task  
27 force to investigate adverse action systems -- the adverse  
28



1 action system, and then makes a mockery out of it by appointing  
2 administrators and supervisors to that without any line staff  
3 who have personal knowledge and experience in abuses of this  
4 system, something is very wrong here.

5 When supervisors and administrators suffer no  
6 severe consequences, and are not made to pay for initiating and  
7 issuing false, unwarranted and unjust adverse actions, there's  
8 something very wrong here.

9 When persons are promoted to positions they are not  
10 qualified for, did not earn, and in some cases were not even on  
11 the list for, and there are persons more qualified and higher  
12 on the list who get bypassed because they do not know the right  
13 person, or affiliated with union representation, something is  
14 very wrong here.

15 When a Director is more interested in attending  
16 lunches, dinners, ceremonies, and rubbing shoulders with  
17 dignitaries, rather than dealing with the problems and concerns  
18 of his line staff, something is very wrong here.

19 There are many more instances of monetary abuses as  
20 well as unjust treatment which could be brought up, but time  
21 does not permit it here.

22 We had a Director prior to Mr. Gomez who for years  
23 was not especially responsive to his line staff. Finally, when  
24 he was shown evidence and realized that some of his staff were  
25 not always honest and forthright with him, when he finally  
26 convinced -- when he was finally convinced to look into some  
27 matters himself and investigate them, he found cases mishandled  
28





1 and many abuses by his staff. He then started to take action  
2 to correct some of these injustices, but of course, as soon as  
3 this started, he was promptly replaced by Mr. Gomez, who  
4 promptly ignored all the work done by him and brought us back  
5 to square one.

6 Let us state that we do not need a politically  
7 correct Director. We do not need a Director of any particular  
8 race, color, sex, national origin. We do not need a Director  
9 who could very easily be replaced by a rubber stamp for his  
10 subordinates' abuses, indiscretions, and violations of  
11 employees' rights.

12 We do, however, need a Director who's a human  
13 being, and who will correct wrong when he finds it, no matter  
14 at what level, and who will impose swift, decisive, and severe  
15 discipline, yes, even on supervisors and administrators for  
16 abuse of employees and their rights; a Director who would  
17 instruct his subordinates down to the lowest supervisory level  
18 in the proper use of progressive discipline, common sense, and  
19 the importance of fairness to all.

20 We do not as yet find these qualities in Mr. Gomez.  
21 When we have a Director who allows an institution to go and  
22 repaint an old, 1970 trash truck at the cost of approximately  
23 \$4,000 of our state taxpayers' money, dollars, and then  
24 subsequently sell it because they decided to buy a new trash  
25 truck, that's a waste of taxpayers' money, as far as I'm  
26 concerned.

27 When the institutions go about fixing up old survey  
28



1 vehicles at about \$4,000 apiece, that's a waste a taxpayers'  
2 money.

3 When the warden -- when a warden is allowed to buy  
4 rose bushes for the administration building walkway at \$2,000  
5 apiece, with \$50 replacements per bush, that to me does not  
6 show leadership.

7 When a heliport is watered constantly almost 24  
8 hours a day when there's a water shortage, and we are  
9 restricted one wash per month on our state vehicles, this just  
10 VIPs landing with at helicopter see green grass, that to us is  
11 abuse.

12 When there is one bad tire on a vehicle, and it's  
13 not repairable, and they throw out all the rest of the three  
14 tires on that vehicle, no matter what shape they're in, that to  
15 me is abuse.

16 When an institution goes so far as to order the  
17 wrong fuel for a power house generator, then they had to pay to  
18 have it pumped out and removed back to the same company they  
19 bought it from at higher cost than what they paid for it in the  
20 first place, that to me is abuse.

21 When ordering from outside vendors, and you order  
22 from a minority-owned business, you can pay 10 percent higher  
23 than any other bid or estimate for the job. So, vendors are  
24 now putting their companies in their wives' names, or in some  
25 other name so they can charge more.

26 CHAIRMAN ROBERTI: That is pursuant to state  
27 policy, though; isn't it? I would stipulate that that's the  
28



1 case.

2 MR. FELDMAN: When cuts are made so that us  
3 officers have to drive a condemned bus, a 32-foot long bus,  
4 with the driver's seat ripped out of it, and we have to put the  
5 driver's seat on a milk crate and strap ourselves down to drive  
6 the truck around the institution, that to me is abuse.

7 When they buy that -- when they buy that new trash  
8 truck, by the way, Senator, they bought this new trash truck.  
9 They bought it with a stick shift transmission. Well, lo and  
10 behold, they found out that the man they hired to drive the  
11 truck at the institution didn't know how to drive a stick  
12 shift, so he burned up two clutches within two months at \$800  
13 apiece or so. So, instead of teaching the man how to drive a  
14 stick shift transmission, they went out and replaced the  
15 transmission, threw it out, and put an automatic in for him.  
16 So, now he can drive an automatic transmission. That to me is  
17 a waste of time.

18 So, therefore, those are some of the examples, I  
19 can give you many more, of adverse actions and other things  
20 that have been -- have been come up, but the other side of the  
21 story needs to be told.

22 This is not a more responsive Department. When I  
23 see administrators, and when I see supervisors being punished  
24 for wrongful terminations, when I see the Director more  
25 responsive to his people, not just the upper echelon people  
26 but the line staff, they seem to always forget us, then I'll  
27 consider supporting him.  
28





1 CHAIRMAN ROBERTI: Thank you.

2 MR. GOMEZ: Just a quick response.

3 We do make mistakes at the Department of  
4 Corrections. No doubt about it. We have made mistakes in  
5 adverse actions and that's an issue that we're spending time  
6 on, an adverse action task force.

7 The rest of it, I really don't have any comment to.

8 CHAIRMAN ROBERTI: Thank you very much.

9 MR. FELDMAN: I didn't think so, sir.

10 Thank you.

11 CHAIRMAN ROBERTI: Next, please.

12 MR. SNELL: Gentlemen, ladies, I appeared here  
13 earlier today in this building on a subcommittee hearing on the  
14 Ralph M. Brown Act.

15 My name's E.T. Snell, and my moniker is E.T. the  
16 Clown.

17 I had the chance to try to expose some of the  
18 toxics and some of the abuses that go on in our society, and I  
19 didn't come here for the purpose of talking at this particular  
20 meeting, but I had the chance, and I felt that the Lord has  
21 kind of guided me here.

22 CHAIRMAN ROBERTI: In regards to the appointment of  
23 Mr. Gomez?

24 MR. SNELL: And others. I wish to -- you asked for  
25 comments on others.

26 CHAIRMAN ROBERTI: No, I asked for comments on  
27 Mr. Gomez. That's what this hearing is for.  
28



1 MR. SNELL: Right. I am opposed, Senator.

2 CHAIRMAN ROBERTI: You are opposed to Mr. Gomez?

3 MR. SNELL: Well, you said other comments.

4 CHAIRMAN ROBERTI: Oh, no, I understand.

5 MR. SNELL: If you're going to put me down to it,  
6 I'm going to --

7 CHAIRMAN ROBERTI: No, no, if you have a statement  
8 to make on Mr. Gomez, we'll be glad to hear it.

9 MR. SNELL: I have a statement to make about the  
10 Department of Corrections, in reference to the Department of  
11 Corrections.

12 CHAIRMAN ROBERTI: Fine.

13 MR. SNELL: If that's all right, Senator.

14 CHAIRMAN ROBERTI: That's within the range of  
15 discussion.

16 MR. SNELL: That's what I was hoping to speak on.

17 I'm not here to clown around. I'm not here to make  
18 any jokes of what this system is.

19 My grandfather was a clown, and his brothers were  
20 clowns. After many years of pressure, he finally cracked and  
21 spent 20 years in mental institutions, which led my father to  
22 wind up in institutions, and consequently had me, at the ripe  
23 age of 13, in institutions. And that's what brought me here,  
24 ladies and gentlemen, today to hopefully give you some of my  
25 expertise testimony, and hopefully to try to get your attention  
26 to get some reform.

27 I've heard you mention many things about reform.  
28



1 TB is really one that concerns me. With all these prison  
2 guards in here today, I'm really concerned, as we all should  
3 probably be tested after this meeting. I see a pretty  
4 close environment here, and TB spreads pretty quickly. I would  
5 like that say that as an environmentalist.

6 I have many credits to myself. I have a real  
7 estate license. I also do occasionally clown around, and I  
8 would like to say what I feel is crime is caused from.

9 I spent the last Thursday, Friday and Monday in  
10 front of a Santa Ana Superior Courthouse in matter of bail  
11 reform. The bail bondsman made over \$100 million last year,  
12 and they used this very building to do this. They have bene  
13 run out of the federal system.

14 There's many issues I'd like to cover in a very  
15 brief amount of time. I have expertise in some issues of  
16 reform. Sally Tanner, I've tried -- contacted Mr. Presley  
17 before on bail bond reform. This is what causes crime.

18 The idea is, if you have a bail bond, and you are  
19 poor, it should not cost you \$5,000 through a bail bondsman.  
20 The rich get out of jail.

21 CHAIRMAN ROBERTI: With all due respect, I think  
22 you're running afield of Mr. Gomez.

23 MR. SNELL: Well, well, let's get down to the  
24 bottom line.

25 The bottom line is, 94 percent of these guys come  
26 out of prison. It's \$25,000 a year to house these guys. This  
27 thing is a joke. I mean, why don't we cut the guys loose a year  
28





1 early, give them some reform, send them to Stan -- do something  
2 with them. I mean, it's obvious that this system is backing  
3 up. It's not working. The system isn't working for us. These  
4 guys are coming out anger [sic].

5 Look what they do. Look at what turned Charles  
6 Manson out. The unad -- the problem of dealing with him. He  
7 was molested as a child. And what are they doing to these guys  
8 at Pelican Bay? They're molesting their -- their bodies as  
9 they come in out there for cavity searches. What do you think  
10 that does to a man when he comes back out into society? Do you  
11 think that helps him?

12 You know, the jokes that go around, the guards  
13 passing and instigating the riots. I know. I went through it.

14 All I wanted to do was get some positive input and  
15 let you people know that the system isn't working. We need a  
16 serious, serious change. And I'm not my brother's keeper, and  
17 I'm not here to try to pass judgment on anybody. All I wanted  
18 to do was get down, and I felt that I was the only one in this  
19 place here that's ever done any time in institutions.

20 How can -- we need both sides of it. And that's  
21 all I'd like to say.

22 God bless you, and I hope you get some reform. And  
23 I wish you luck if you make it.

24 MR. GOMEZ: Thank you.

25 CHAIRMAN ROBERTI: Thank you.

26 Any other witnesses?

27 MS. CHACON: Good afternoon. My name is Denise  
28



1 Chacon, and I'm a correctional officer assigned to Patton State  
2 Hospital in San Bernardino.

3 I would like to preface my statements by expressing  
4 appreciation for the opportunity to address this Committee.

5 Before I go any further, I'd like to say that on  
6 Friday, I FAXed Mr. Gomez a letter with the supporting  
7 documents which pertain to what I'd be testifying here today. I  
8 also sent it to your research consultant.

9 On Friday, apparently Mr. Gomez made several phone  
10 calls, inquiring as to my authority to testify before you here  
11 today, so I'd like to give him at this time a letter of a  
12 unanimous mandate by my local chapter to be here on their  
13 behalf today. I'm testifying on two separate issues.

14 CHAIRMAN ROBERTI: Your local chapter of --

15 MS. CHACON: CCPOA.

16 My attendance here today is in an effort --

17 CHAIRMAN ROBERTI: Pelican Bay?

18 MS. CHACON: No, Patton State Hospital.

19 My attendance today is in an effort to render  
20 information which will hopefully assist in the decision making  
21 process.

22 My initial contact with Mr. Gomez came in May of  
23 last year. I accompanied Jack Meola, who is the CCPOA Vice  
24 President over Corrections, to a monthly Director's meeting.  
25 This meeting is a forum wherein local chapter presidents meet  
26 with the Director to discuss issues at their respective  
27 institutions.  
28



1           At the May, 1991 meeting, I spoke specifically on  
2 safety and security issues, such as, however not limited to,  
3 the lack of a shooting policy, correctional officers conducting  
4 police business, the manner in which inmates are transported,  
5 unsafe emergency equipment, so on and so forth.

6           Mr. Gomez gave every assurance that the problem  
7 addressed would be resolved expeditiously.

8           Shortly after the meeting, I was notified that each  
9 of the position assignments that had previously been the source  
10 of concern were to be eliminated due to budgetary constraints.  
11 The negotiations over position cuts transpired in August, and  
12 the actual depletion occurred in January.

13           During the months of August to January, the  
14 positions to be eliminated changed vastly. Nearly all the  
15 originally negotiated positions were reinstated, ultimately  
16 leaving the original security concerns at issue.

17           In November, the Joint Legislative Budget Committee  
18 conducted a hearing at Patton. I testified before that  
19 Committee. The concerns raised were vastly downplayed by  
20 Mr. Gomez's office. Since November, I've been providing  
21 Senators Alquist, Leonard, and Presley with documentation to  
22 support the allegations regarding the safety and security  
23 concerns.

24           On February 14th, Senator Alquist instructed  
25 Mr. Gomez to respond to several of these concerns. The  
26 response Mr. Gomez submitted was totally inaccurate. I do not  
27 presume to know whether Mr. Gomez is completely misinformed, or  
28





1 whether the Committee was intentionally misled. In either  
2 case, such action is not that of a conscientious Director,  
3 especially in light of the severity of the issues at hand.  
4

5 At no time has anyone from Mr. Gomez's office  
6 contacted me to resolve these issues, nor have the issues been  
7 addressed in any identifiable fashion. I have forwarded said  
8 documents to your research department for your review. The  
9 contents clearly and repeatedly delineate not only the severity  
10 of the current situation, but also the apathetic manner in  
11 which Mr. Gomez has attempted to dismiss our concerns.

12 The only real concern that I'm aware of is that  
13 Mr. Gomez has displayed is whether or not I have the authority  
14 to address you today.

15 At the conclusion of the Director's meeting in  
16 May, I requested a conference in private on a separate and  
17 personal matter. In Mr. Gomez's office, I informed him that I  
18 was currently involved in a federal litigation against the  
19 Department of Corrections, and that it was never my intention  
20 for the matter to reach such proportion, but I felt I had no  
21 other option.

22 Mr. Gomez boisterously replied that he had  
23 approximately 1400 cases pending against the Department of  
24 Corrections, and that he didn't concern himself with any  
25 additional cases. I explained the nature of the case, and  
26 informed Mr. Gomez that a local investigation had been  
27 conducted which supported the claim of retaliation due to an  
28 EEO complaint.



1                   Mr. Gomez personally spoke to the associate warden  
2 who conducted the investigation, and also obtained a copy of  
3 said report.

4                   Approximately a week later, Mr. Gomez stated to a  
5 CCPOA representative that the allegations were not  
6 substantiated. Following that statement, Mr. Gomez phoned me  
7 at my work and informed me that the allegations were in fact  
8 substantiated. Mr. Gomez then asked what I wanted.

9                   I responded, "The same thing that I've always  
10 wanted. I want you to get your local administrators off my  
11 back, stop the harassment so I can do my job and be left  
12 alone."

13                   Mr. Gomez then made an offer to relocate me to any  
14 facility within the state, remarking that such a move was just  
15 a phone call away from his office. I told Mr. Gomez I wasn't  
16 about to uproot my four children solely because he couldn't  
17 ensure his managers act in accordance with state and federal  
18 law.

19                   The federal judge's initial decision is now for  
20 publication as federal law in my favor. The evidence is so  
21 lengthy that the federal judge granted a year-long discovery  
22 period.

23                   Mr. Gomez was made very aware via the EEO report  
24 that the findings were very damaging against the Department of  
25 Corrections, yet he did not act. The Department's own  
26 investigation addressed the violation of law and harassment.

27                   It should be noted I brought all this evidence to  
28



1 the meeting in May.

2 CHAIRMAN ROBERTI: What's the nature of the  
3 harassment?

4 MS. CHACON: Specifically?

5 CHAIRMAN ROBERTI: Yes.

6 MS. CHACON: I had a correctional captain several  
7 times slap me on the back in front of witnesses and tell me  
8 that the one thing I need to learn about the Department of  
9 Corrections and I will accept is that everyone has to give a  
10 little head now and then.

11 This captain admitted it in the EEO findings,  
12 stating that, yes, he said it, but that's not really exactly  
13 what he meant. And there were several other allegations there  
14 that were supported.

15 It should be noted that I brought all this evidence  
16 to the meeting, with the exception of the confidential report  
17 which was obtained for Mr. Gomez's review. Mr. Gomez did not  
18 wish to review my material at that time, and my EEO complaint  
19 is far from being an isolated incident at Patton.

20 With regard to both the Patton matter and the  
21 litigation, Mr. Gomez was given ample opportunity to resolve  
22 the issues at the lowest possible level, and at any level, for  
23 that matter.

24 Although Mr. Gomez did use my scenario in a  
25 warden's meeting, and notification of the judge's decision is  
26 now being distributed statewide to his top managers, the  
27 situation continues as of this day.  
28





1 I'd also like to say in closing with regard to what  
2 the CSEA representative said, I'm precluded from accessing my  
3 employees on an ongoing basis.  
4

5 And with regard to the statement of under a  
6 reasonable basis, when my staff is being removed from  
7 accompanying dangerous inmates on transports, and I have  
8 numerous posts being vacated, I'm told very single day that  
9 it's not reasonable for me to even ask because there's no one  
10 to take my place so that I can access my employees.

11 CHAIRMAN ROBERTI: You said the situation is going  
12 on to this day. You mean that kind of comment, or something  
13 similar to it?

14 MS. CHACON: No, it's -- I supplied for Mr. Gomez a  
15 stack approximately this tall -- would you agree -- of  
16 documentation supporting the allegations of harassment and  
17 retaliation based on the EEO complaint and the filing of the  
18 federal litigation.

19 CHAIRMAN ROBERTI: Has there been any official  
20 finding as pertains to retaliation?

21 MS. CHACON: The federal EEO has deferred it over  
22 to the federal court as I'm seeking litigation now, so they  
23 make the determination.

24 CHAIRMAN ROBERTI: That's pending right now?

25 MS. CHACON: That's pending.

26 CHAIRMAN ROBERTI: And your accusation is  
27 retaliation by who specifically?

28 MS. CHACON: Well, to be specific, I have one



1 witness who was approached by an associate warden who was sent  
2 over to my facility and told that their sole job would be to  
3 write documentation on me for progressive discipline. Three  
4 female supervisors were approached.

5 CHAIRMAN ROBERTI: Mr. Gomez, do you want to  
6 respond?

7 MR. GOMEZ: First I'd like to deal with the issue  
8 regarding the reduction of positions at Patton.

9 At Patton, we did reduce 37 positions in security.  
10 They were as part of the budget reduction that I was forced to  
11 go through. I felt comfortable then; I feel comfortable today  
12 that the positions we reduced still provide a good security  
13 system for perimeter security for Patton State Hospital.

14 Patton State Hospital is not a prison; it is a  
15 state hospital. We have been asked through legislation and  
16 through the mental health system to provide perimeter security.  
17 We are providing that perimeter security.

18 And although Ms. Chacon disagree on the issue of  
19 the needs of the institution by position, the CCPOA agreed to  
20 the 37 position reduction at the table, and it was a negotiated  
21 agreement.

22 I didn't like cutting the 37 positions, but I feel  
23 very comfortable in telling this Committee, when I compare  
24 those 37 positions against many of the other positions I could  
25 cut in the Department, I felt that they were some of the  
26 easiest to cut because I did not see them providing the same  
27 level of security as some of the other institutions we have.  
28



1                   Regarding her EEO complaint, I would say the  
2 majority of what she's talked about is correct in terms of her  
3 discussions with me, but I'd like to make some clarifications.

4                   Denise did come to meet with me. I think it was in  
5 May or June, I can't remember for sure. Presented some issues  
6 of a business nature at the CCPOA meeting, and then afterwards,  
7 asked to have a private conversation behind a closed door with  
8 me, which I agreed to.

9                   She made some significant allegations to me  
10 directly and gave me some material. She also said that she had  
11 a lawsuit pending -- I think lawsuit pending was the issue.  
12 And I told her, and I think she misportrays this issue, we have  
13 a lot of lawsuits in the Department. If you have an EEO  
14 lawsuit, you should continue with it. Let me take a look at  
15 this.

16                  I took a look at it, and my findings -- I don't  
17 know whether I'm out of school at this point in time from a  
18 personnel standpoint, but I'm going to take some liberties  
19 anyway -- my findings were that some of what Ms. Chacon said  
20 was correct. An adverse action had been taken, and I found the  
21 adverse action insufficient. I felt that the adverse action  
22 that was taken, and it was while I was not Director but it as  
23 prior to my being Director, was insufficient.

24                  The case that she points out I did bring up at a  
25 wardens' meeting. And at the wardens' meeting, I let people  
26 know that that kind of behavior in my mind, when I'm director,  
27 people are going to be fired. They're going to be terminated.  
28





1 I also went to our Labor Relations folks and said,  
2 "What can I do on a case where adverse action has been taken?  
3 Can I go back and get a second bite of the apple?"  
4

5 And by that, the investigation was conducted, a  
6 decision was made, and I was advised by my Labor Relations  
7 people and the legal staff that I couldn't have a second bite  
8 at the apple. That the adverse action had been taken, and it  
9 was not a significant adverse action, but it had been taken and  
10 I could not go back.

11 I called Ms. Chacon and I told her that. I also  
12 told her -- because she told me that she was getting from her  
13 perspective jerked around by -- by sergeants, by lieutenants,  
14 by many different people at the institution. I called the  
15 warden. I called the captain. I called the associate  
16 personally. And I said, "It better stop. Whether she's half  
17 right, whether she's a quarter right, or whether she's a  
18 hundred percent right, it better stop. Don't jerk that lady  
19 around." And that's the instruction I gave to them.

20 I did offer her, if she wanted, at her pleasure, to  
21 go to any other institution. Her response to that is, "I have  
22 my family locally. I like where I live, and I don't want to  
23 move." I said, "That's fine. I just wanted to give you that  
24 option."

25 I am probably as strong an individual on issues of  
26 sexual harassment in this Department as anybody that you'll  
27 have facing you as a Director. I have made it a policy, and  
28 I've met with every warden and every administrator, how I feel



1 about staff sleeping in the chain of command, how I feel about  
2 treatment of women in the Department of Corrections.

3 And we have ten years to go, Senator. We've got a  
4 long ways to go in the Department of Corrections. We are not  
5 -- we are not nine on a scale of one to ten in the treatment of  
6 women on issues of sexual harassment. It's an issue I will  
7 spend significant amount of time and energy and continue to  
8 spend that time and energy.

9 But I did not take Ms. Chacon's comments lightly.  
10 I did not take her issues lightly. I investigated it. I read  
11 every document she gave me, and I found that the adverse action  
12 that was taken, I did not have an ability to go back on.

13 I think she would agree that the adverse action and  
14 the issue took place while I was not Director, and the adverse  
15 action took place while I was not Director.

16 She came to me feeling that she had not bene fairly  
17 dealt with.

18 CHAIRMAN ROBERTI: Yes, Ms. Chacon.

19 MS. CHACON: I have a rebuttal to that.

20 First, I'd like to address the reduction issue.

21 When I sat at the negotiating table with  
22 Mr. Gomez's team on August 16th, I prefaced that meeting by  
23 saying that we in no way agreed to those position cuts. At  
24 that meeting, we were told by Mr. Carl Larson that those  
25 positions were to be filled behind. Correctional officers  
26 would no longer be conducting those duties because our  
27 legislated role was to provide perimeter security only.  
28



1           Subsequent to that meeting, nearly everyone of  
2 those positions were reinstated. When Senator Alquist wrote to  
3 Mr. Gomez and brought up the issue of these positions being  
4 filled, Mr. Gomez's response, which I have here, stated, "I  
5 know of no one with any authority in CDC to ever make that  
6 statement that those positions would be filled behind."

7           I'm in possession of the table notes today, where  
8 his people not only said at that meeting but a meeting  
9 subsequent to that that those positions would be filled behind,  
10 because the officers would no longer be conducting those  
11 duties.

12           They're still conducting those duties. And the one  
13 letter that I sent to you in this packet, just as an example,  
14 in a circle of 12 observation posts, five of them are abandoned  
15 daily. In addition to that, we're not supposed to be doing the  
16 patrol duties anymore, and they're parking two patrol vehicles  
17 in front of officer's posts and telling them to abandon their  
18 posts and get in those vehicles and respond to the radio calls  
19 as the situations warrant.

20           Additionally, we do feel that that situation's very  
21 unsafe there because Patton took the hardest hit statewide. In  
22 Mr. Gomez's figures, he states that we are facing a 20 percent  
23 reduction. In the chart that he sent Senator Alquist, it says  
24 that we were budgeted for 181 positions. We came to the table  
25 only having 153, and I repeatedly said, "I know we're budgeted  
26 for more positions than that." They said at the table, "No,  
27 you're not. You're only budgeted for 153, and you're going to  
28





1 end up with 125." I've got 112 right now from 181. That's  
2 about a 32 percent reduction.

3 I don't really know what the problem is, if it's  
4 simple mathematics, but these figures just do not add up.

5 With regard to my personal issue, I gave you no  
6 documents at that meeting. I brought in a whole satchel full  
7 of documents, and you told me you didn't have time to deal with  
8 that or read those documents. You just wanted to get a copy of  
9 the associate warden's report.

10 As I left your office, you told your secretary,  
11 "Get this guy on the phone right now." This particular  
12 association warden called me the next morning and said, "Jim  
13 Gomez called me. He asked me about my report. I told him  
14 exactly what my findings were." They asked for a copy of the  
15 report. The warden no longer had it. So, this associate  
16 warden had to dig up his copy of the report, get it to his  
17 warden so he could get it to Mr. Gomez.

18 CHAIRMAN ROBERTI: What were the findings of the  
19 associate warden's report?

20 MS. CHACON: He found --

21 MR. GOMEZ: The associate warden found that she had  
22 -- that inappropriate comments had been made to her, clearly.

23 MS. CHACON: It was also stated very clearly in  
24 there that there was a violation of the labor codes, because  
25 when he interviewed my associate warden, and my captain, and  
26 the sergeant, and the the lieutenant involved in my situation,  
27 he concluded each one of their interviews abruptly and told  
28



1 them, "You need to get a representative. You're facing adverse  
2 action."

3  
4 I happen to know for a fact that the day that the  
5 Attorney General's Office accepted service for my litigation,  
6 Jim Rowland called down to my institution and said, "Take no  
7 action against these people because we don't want it to look  
8 like an admission of guilt."

9 With regard to the --

10 CHAIRMAN ROBERTI: Jim Rowland is who?

11 MS. CHACON: The previous Director.

12 CHAIRMAN ROBERTI: What I'm trying to figure out,  
13 in your personal case it's very serious, and we've heard these  
14 kinds of things, unfortunately, come up with the Department of  
15 Corrections in the past.

16 However, the relevant point to me as far as your  
17 personal case is if there was any dereliction of duty on the  
18 part of Mr. Gomez.

19 MS. CHACON: My attorneys instructed me to add  
20 Mr. Gomez as a co-defendant because he's known of the  
21 retaliation and harassment for almost a year and taken no  
22 action. I've not done this.

23 But he was made aware of it, and it has not ceased  
24 as of today.

25 Now, I know he can't take a second bit out of the  
26 apple. I never asked him for a second bite out of the apple.

27 When he phoned me at my job, what I asked him was  
28 get these people to leave me alone. I specifically told you,



1 if I'm out of line, and I need discipline, I expect discipline.  
2 But this everyday, day after day, continual crap -- if you'll  
3 excuse my language -- has got to stop.  
4

5 MR. GOMEZ: She did say that, and --

6 CHAIRMAN ROBERTI: And when she approached you that  
7 way, what have you done or what did you say?

8 MR. GOMEZ: As I said, I called the captain, I  
9 called the associate, I called the warden, and I said, "That  
10 stuff has got to stop. I don't want to hear about it. I don't  
11 want to see it. It's got to stop. You cannot be harassing  
12 people."

13 I mean, this job --

14 CHAIRMAN ROBERTI: Have you taken any --

15 MR. GOMEZ: -- this --

16 CHAIRMAN ROBERTI: When did that call take place?

17 MR. GOMEZ: That call took place probably --

18 MS. CHACON: June.

19 MR. GOMEZ: -- fifteen minutes after --

20 CHAIRMAN ROBERTI: June of --

21 MS. CHACON: Last year.

22 MR. GOMEZ: Fifteen minutes after I confirmed what  
23 I believed was Ms. Chacon's concerns.

24 And I have to agree with her on an issue. I said I  
25 reviewed a stack of paper like this that she provided me.  
26 That's -- she's right. I did review a stack of paper like  
27 this; it was all the stack of paper on the action and the  
28 investigations. She did not provide it to me. I got it from





1 Personnel, Labor Relations. She's correct on that point.

2 I think that the point that she made to me was, "I  
3 want you to get these people off my back. I'm getting tired of  
4 it."

5 CHAIRMAN ROBERTI: And she says nothing has  
6 happened. Have you stayed on top of it?

7 MR. GOMEZ: She has not said -- she has not said a  
8 word to me since that phone call that she's had one bit of  
9 harassment. I just have to be honest with you, not one time  
10 has she called and said, "Jim, they're still harassing me.  
11 They're still giving me a hard time."

12 I called those people 'cause I was concerned about  
13 her as an individual.

14 Now, this issue on labor relations and on the 37  
15 positions, we're going to argue about that one for a long time.

16 But this issue about how she was treated, the  
17 minute I confirmed what I believed the treatment of her was, I  
18 called down, and I have not heard a word from Denise on that  
19 since.

20 MS. CHACON: Okay.

21 I did try and get a clarification from his office.  
22 I wrote to Mr. Denninger on three separate occasions because  
23 subsequent to this, there was also a program administrator sent  
24 to my facility to -- she was doing an investigation on -- on  
25 several issues, this issue being one of them.

26 She spoke to me at length about this issue. I  
27 wrote to Mr. Denninger three times, and Mr. Denninger wrote  
28



1 back to me and said -- the first time he said, "This woman says  
2 she never interviewed you because she was on vacation."

3 And I kept writing and kept writing, and he wrote  
4 back and he said, "Well, we don't have anything to tell you  
5 because when she was there, she was really wasn't there on this  
6 case, but she was there on another case."

7 So, the attempt was made by my office. When I got  
8 that letter back, I perceived it as the entire issue being  
9 swept under the rug again.

10 MR. GOMEZ: We had enough personal conversation  
11 where I called her and she called me, that if she felt she was  
12 being hassled, she had my number. I really mean that, Senator.

13 If I felt she was being hassled on those issues  
14 again, I'd personally --

15 CHAIRMAN ROBERTI: I have -- we've had testimony in  
16 the Department of Corrections in the past, and we have -- this  
17 Committee, not the Floor -- in a very close vote, have rejected  
18 somebody who himself had done nothing erroneous, but had seemed  
19 to be lax in enforcement.

20 The Department of Corrections, as you said, has a  
21 long, long way to go. This is a very serious charge, but I  
22 don't sense now -- maybe I'd like some help -- that Mr. Gomez  
23 has been lax in this point.

24 Yes.

25 SENATOR PETRIS: I had a couple of questions.

26 When you chew them out personally, which I think is  
27 a very good thing to do, is there a letter follow-up?  
28



1 MR. GOMEZ: I didn't send a letter follow-up on  
2 this, no.

3 SENATOR PETRIS: But then you got no more  
4 complaints.

5 MR. GOMEZ: I got no more feedback whatsoever that  
6 there was an issue.

7 SENATOR PETRIS: Can you tell me which other  
8 institutions, or which institutions you have served in? How  
9 many years --

10 MR. GOMEZ: I have never served at an institution.

11 SENATOR PETRIS: You haven't?

12 MR. GOMEZ: No. I have served in Sacramento all my  
13 life, with the exception of two years in Santa Clara. I've not  
14 come from the line.

15 SENATOR PETRIS: At Headquarters?

16 MR. GOMEZ: At Headquarters.

17 SENATOR PETRIS: Well, I asked that because of what  
18 Senator Roberti said. We had some pretty ugly situations at  
19 one of the other institutions. I wondered if you could comment  
20 from your own experience as to what was happening there, but --

21 MR. GOMEZ: I could comment, that when I made the  
22 comments of lack of respect in the Department, how we treat  
23 people, I think when you have a lack of respect for your fellow  
24 co-worker, the people that will first -- first get hit are  
25 women and minorities.

26 SENATOR PETRIS: That's right.

27 MR. GOMEZ: Secondly will be White males.  
28





1 I believe that when you disrespect the people you  
2 work with, if you don't have value for the people that you work  
3 with, that you start to create an environment that is not  
4 conducive to good employee relations.

5 And I said, and I'll say it again, I think it's a  
6 ten-year project, Senator. It's probably -- if there's any  
7 legacy anybody can leave to Corrections, it will be a legacy of  
8 how people respect each other on the job. Then maybe we can  
9 deal with inmates a little differently, but first we have to  
10 deal with our staff better.

11 I firmly believe that. I've made -- I have made it  
12 a platform. I've discussed it at every wardens' meeting. I  
13 have discussed it at every cabinet meeting. I've discussed it  
14 at parole regions.

15 I sign every firing in the Department, an average  
16 of about 200 a year. I look at adverse actions, and they  
17 continually come up to show a lack of respect for people.

18 And I can only say that it's going to take a lot of  
19 time, and a lot of effort, and a lot of heartache, and a lot of  
20 consistency, and a lot of consistency of message, and  
21 appointment of people that have similar views, because it is a  
22 difficult problem to deal with.

23 Women have only come into law enforcement  
24 significantly in the last ten years. We have a 20 percent  
25 woman workforce. Most law enforcement agencies have from 8-9  
26 percent. How women are treated in that environment is a major  
27 issue.  
28



1 But it's not just women. It's everybody. It's an  
2 issue of respect, of how you respect your fellow co-worker.  
3 How you address them. How you deal with them. How you deal  
4 with their problems.

5 And if there's -- if there is an area that I hope,  
6 a goal that I have that I'll be able to impact over eight  
7 years, if this Governor stays, that'll be the number one legacy  
8 that could be left with the Department of Corrections, is  
9 people treat each other better, 'cause they'll treat inmates  
10 better after that.

11 We have a ways to go.

12 SENATOR PETRIS: Well, I admire your candor on  
13 that. I think we're well aware of that from hearings we've had  
14 over a considerable period of time a few years ago, where the  
15 old boys -- macho old boys' circle -- what do we call it -- old  
16 boys' network, or whatever it is, was pretty awfully bad. And  
17 it was aimed at women, it was aimed at minorities. Women  
18 employees came in and testified, very courageous, as Ms. Chacon  
19 is, and others, and minorities. It was a very bad situation.

20 That's one where confirmation was denied, I think.

21 No? I guess, not. Well, anyway, we denied one.

22 CHAIRMAN ROBERTI: Yes, actually, the gentleman  
23 from Ohio, he was denied, and Mr. Campoy passed on the Floor by  
24 a vote or two.

25 SENATOR PETRIS: Rooting out that kind of an old,  
26 old tradition and attitude is not easy. I hope you stay with  
27 hit and keep hammering away. It's just got to be done.  
28



1 MR. GOMEZ: I took at \$30,000 pay cut to take this  
2 job, to make a difference in Corrections.

3 I think I can. I don't think that there's many  
4 people that have the tenacity, that have the intent, that  
5 believe in what they're doing.

6 I think that this, as I said in my opening remarks,  
7 this is the most challenging Department in state service.  
8 We've done some tremendous things. We incarcerate felons  
9 wonderfully, but we have a ways to go.

10 CHAIRMAN ROBERTI: On the issue of the reduction of  
11 the personnel, Ms. Chacon seems to be indicating that that  
12 creates hazards for the employees.

13 What has been your feeling of this?

14 MR. GOMEZ: I asked for staff -- she just wrote a  
15 letter, I think, last Friday, FAXed Friday, and I met with  
16 Senator Alquist, I think, Monday. He was going to have a  
17 hearing on it. He then canceled that hearing.

18 In reviewing that, I've not had an opportunity to  
19 get back or to do an analysis, frankly, of that letter.

20 But I can tell you, I have continually asked staff  
21 who have good, strong custody backgrounds how comfortable they  
22 feel. They feel very comfortable. I have asked to have the  
23 Executive Director of Patton State Hospital what their opinion  
24 is [sic]. Their opinion came back as, "We'd rather have more  
25 positions, but we feel you're providing adequate security."

26 I believe we're providing adequate security. There  
27 used to be a tremendous walk-away from that institution. Our  
28





1 officers cannot be armed at their posts in terms of perimeter  
2 security. We're dealing with patients. We're not dealing with  
3 inmates in terms of the Patton State Hospital.

4 And I feel comfortable based on all the  
5 information I've been provided that we have adequate security.

6 Do we have great security? Do we have the best  
7 security? No, but I've been provided a budget that I believe  
8 allows me adequate security at Patton.

9 CHAIRMAN ROBERTI: I expect, based on Ms. Chacon's  
10 testimony, and this may be the first time since the  
11 conversation with you in May or June of last year, I expect,  
12 based on your testimony and what you say your policy has been,  
13 you will be in contact with those --

14 MR. GOMEZ: I certainly will.

15 CHAIRMAN ROBERTI: -- individuals who appear to be  
16 harassing her continuously.

17 MR. GOMEZ: I eliminated -- part of the 37  
18 positions, I eliminated some of those positions: one  
19 correctional administrator.

20 CHAIRMAN ROBERTI: Ms. Chacon.

21 MS. CHACON: I was saying one.

22 CHAIRMAN ROBERTI: Just one.

23 MS. CHACON: Can I just make two closing points?

24 CHAIRMAN ROBERTI: Please, yes.

25 MS. CHACON: What started all this is, when the  
26 Joint Legislative Budget Committee came to Patton, I provided  
27 them with telephonic testimony. It raised enough concern that  
28



1 Senator Alquist asked the Hospital administrator to respond to  
2 my concerns, which he did in this.

3           Senator Leonard's office asked me to critique  
4 Mr. Summer's responses to those, which I did. I also forwarded  
5 it to Senator Alquist's office, and he wrote a letter to  
6 Mr. Gomez, asking him to respond to my allegations, which  
7 Mr. Gomez did in this letter, this letter.

8           And I wrote back to Mr. Gomez, telling him why all  
9 his answers were totally inaccurate, and I provided all the  
10 supporting documents to show him why. Why these security  
11 concerns are being downplayed, I don't know.

12           With regard to there have been several walkaways in  
13 the past, we've been very lucky, period, and our luck's just  
14 about run out.

15           With regard to the other issue, I didn't want  
16 Mr. Gomez to infer that he had an open door or open line of  
17 communication with me after that meeting.

18           Mr. Gomez, if you remember, I was very hesitant to  
19 give you the name of the person who had told me what the  
20 confidential findings of that report were. You slammed your  
21 hand down on the desk, you raised your voice and said, "Look,  
22 I'm a very busy man. And if you don't want to tell me who told  
23 you that, you might as well get out of my office."

24           I was -- I was crying. I told him, "I'm going to  
25 give you this name, but I'm very afraid that this person, who's  
26 one of your administrators, is now going to suffer  
27 retaliation."  
28



1 I didn't leave there feeling we had an open door  
2 policy at all. I wrote three letters to Mr. Denninger, trying  
3 to keep this thing going. He --

4 CHAIRMAN ROBERTI: Mr. Denninger, again, is --

5 MS. CHACON: Being his Deputy --

6 MR. GOMEZ: He's Deputy Director.

7 MS. CHACON: He told me, first of all, I wasn't  
8 even interviewed by this woman. And when I wrote again and  
9 said, look, yes, I was. He said, well, that wasn't the scope  
10 of her investigation.

11 So I -- I've tried to resolve this numerous times.  
12 I've wrote so many grievances on harassment and retaliation  
13 that go through Labor Relations, Mr. Gomez could not have  
14 known.

15 MR. GOMEZ: I don't slam my hands down, and I  
16 really don't treat people that way.

17 I do remember her being very upset, and I do  
18 remember saying that I really needed to have that name so I  
19 could talk to that person, but I don't agree with the other  
20 comments.

21 MS. CHACON: I wasn't alone with him. There was a  
22 union executive in the room at the time.

23 MR. GOMEZ: I'd be more than happy for him to  
24 testify.

25 SENATOR MELLO: Mr. Chairman, may I ask the  
26 witness?

27 CHAIRMAN ROBERTI: Senator Mello.  
28





1           SENATOR MELLO: How many -- I want to ask two  
2 questions, because I know we have 102,00 or 105,000 inmates,  
3 and there must be staff of, what, 35,000-40,000 in the whole  
4 Corrections Department.

5           How many times, number one of two questions, how  
6 many times did you meet with him personally?

7           Number two, how many times did you talk to him on  
8 the telephone on related matters such as this?

9           MS. CHACON: I met with him one time in person last  
10 May. He called me after that meeting, and just the letters  
11 that I've sent to their office, trying to find out what the  
12 outcome was.

13          SENATOR MELLO: Well, I think that in his position  
14 -- I'm not trying to say he shouldn't meet with you more, but  
15 just understand, as you do, the complexity of the whole  
16 Department, the numbers that you're dealing with.

17          I'm just -- he could have very well passed you on  
18 to some assistant director here and there, but I mean, the fact  
19 that he wanted to speak with you personally, I think, is to his  
20 credit rather than trying to pass the buck to some other  
21 deputy.

22          MS. CHACON: I was there at a monthly Director's  
23 meeting, which he hold monthly with chapter presidents. So, I  
24 was already there on union business.

25          After that, I asked to speak to him in private.

26          SENATOR MELLO: Yes, okay, thank you.

27          MR. GOMEZ: As you can see, I'm not a Department  
28



1 without problems. But I can guarantee you, from my  
2 perspective, I have the capability of caring, and the desire to  
3 try and do the best job as the Director of the largest and  
4 most difficult Department in state service.

5 CHAIRMAN ROBERTI: We're going to break for five  
6 minutes.

7 [Thereupon a brief recess was taken.]

8 CHAIRMAN ROBERTI: The Senate Rules Committee will  
9 reconvene.

10 Senator Petris has to leave. I don't think any of  
11 us realized this hearing was going to last as long as it has,  
12 and Senator Petris has to leave.

13 The confirmation of the Director is a very  
14 important vote, one of the more important positions. I would  
15 like to get to the vote today, but nevertheless, I also would  
16 like to have a full Committee.

17 I don't want to inconvenience the candidate,  
18 Mr. Gomez, so the best I can say is, I think we will put it  
19 over. However, put it over with the understanding that, for  
20 Mr. Gomez's sake, this is not an attempt to defeat your  
21 appointment.

22 From what I have heard, I tend to think you are  
23 really rather diligent, and I take Ms. Chacon's testimony very,  
24 very seriously, and we do expect to act on that. But I have  
25 heard testimony of laxness in the Department of Corrections in  
26 many, many hearings, and yours just doesn't come into that  
27 category. In fact, it's quite the contrary.  
28



1           What you say about ten years, I hope it's not true.  
2           It's not your fault, but, I mean, how many years must we wait?  
3           This has been going on, going on, going on, and then we hear it  
4           again.

5           However, I understand Ms. Chacon's original  
6           complaint was during the term, I guess, of the previous  
7           Director. Her accusation's very serious. Her case is very  
8           serious, but before I would cast a no vote on anybody in an  
9           authority position, I think the laxness would have to be  
10          directed at them.

11          I hope she testifies before our budget committees.  
12          Her testimony's been excellent, and I think we have to have an  
13          understanding of what happens when we have cutbacks. It's a  
14          factor.

15          But, your appointment is just terribly important,  
16          and everybody should hear it. I hope Senator Craven's here.  
17          I mean, this is something important.

18          That doesn't mean I'm not going to listen to what  
19          the other witnesses have to say. I'm going to.

20          But I just want you to know what the status of my  
21          mind is right now. This is not an attempt to put you over  
22          because we're trying to figure out a way of defeating your  
23          appointment.

24          SENATOR MELLO: Mr. Chairman, may I just ask  
25          Senator Petris a question, if I may.

26          We're getting backed up with a lot of appointments  
27          coming up. I don't know what Senator Petris's feelings are, if  
28





1 he would be inclined, as we do in some committees subject to  
2 the Chairman, to open the roll, let him make a motion, and so  
3 forth.

4 If he's not inclined to do that, whether Senator  
5 Roberti feels --

6 CHAIRMAN ROBERTI: No, no, no, I don't want to do  
7 that. I think that this is an important appointment.

8 If this were the Widget Commission, I would say,  
9 yes, let's do that.

10 SENATOR MELLO: Would Senator Petris feel bad if we  
11 were to, and if Senator Roberti's inclined to be supportive, as  
12 I am, and assuming Senator Beverly is, to have us take action  
13 with your absence here today for the rest of the meeting?

14 SENATOR PETRIS: No, I don't object to that, if the  
15 Chair --

16 CHAIRMAN ROBERTI: I think all five should hear  
17 this. I think otherwise, we treat an appointment like this,  
18 you know, sort of on a merry-go-round treadmill appointment. I  
19 just don't think that's right.

20 This is an important appointment. People's  
21 concerns in this area are very, very important.

22 I made my mind felt on how I felt about  
23 Mr. Gomez, but I really think everybody should hear it. This  
24 is just too important an issue, and we should all hear what  
25 goes on in Corrections.

26 I'm not saying it's your fault. In fact, I'm  
27 pleased to hear what your response is, but I think we all have  
28



1 to hear what goes on there, because if we don't do anything  
2 else, we want to give you all the help we can to clean it up  
3 once and for all. It's just ridiculous that everytime we seem  
4 to have a confirmation, it's their only chance to vent what is  
5 happening.

6 SENATOR PETRIS: Well, by saying I have no  
7 objection, if put it over and we hear it again, hope I haven't  
8 waived my right to ask some questions.

9 CHAIRMAN ROBERTI: No, no, no, and I explained that  
10 to Mr. Gomez as well. I mean, that doesn't mean the other  
11 appointees are not going to be heard and taken seriously, but  
12 it's just that important an issue.

13 And we're at the hour of 6:05 right now.

14 Thank you, Mr. Gomez.

15 Dr. Mayer will be put over until the 8th.

16 [Thereupon this portion of the  
17 Senate Rules Committee hearing  
18 was terminated at approximately  
19 6:05 P.M.]

20 --oo0oo--  
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SENATOR NICHOLAS PETRIS

SENATOR HENRY MELLO

MEMBERS ABSENT

SENATOR WILLIAM CRAVEN, Vice Chairman

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

JERRY B. EPSTEIN, Member  
California Transportation Commission

DEAN R. DUNPHY, Member  
California Transportation Commission

JAMES H. GOMEZ, Director  
Department of Corrections

FRANK NAVA  
Hispanic Law Enforcement Task Force

ANDY HSIA-CORON, Vice President  
Unit 3  
California State Employees Association

JOHNNIE MAE CONNER  
NAACP and other Organizations

NORMA MARTINEZ, President  
Los Angeles Parole Chapter  
Chicano Correctional Workers Association





APPEARANCES (CONTINUED)

1  
2 RUDY BERMUDEZ  
Los Angeles Chapter  
3 Chicano Correctional Workers Association  
4 CHRIS GONZALES, President  
Sacramento-Folsom Chapter  
5 Chicano Correctional Workers Association  
6 ROBERT M. CEBALLOS, Northern California Vice President  
Mexican-American Correctional Association  
7  
GIACOMO A. MEOLA, State Vice President  
8 California Correctional Peace Officers Association  
9 DONNA McKINNEY, President  
Women in Criminal Justice  
10  
SUZIE COHEN, Legislative Advocate  
11 California Probation, Parole and Correctional Association  
12 CYNTHIA DE MARS, Correctional Officer  
Folsom State Prison  
13  
CARMEN ROJAS, Correctional Officer  
14 Folsom State Prison  
15 REBECCA FEAGINS, Former Inmate  
Community Connection  
16  
FRANK G. FORD, Correctional Officer  
17 Folsom State Prison  
18 BOB BALES, Retired Correctional Officer  
19 MIKE CORCORAN, Correctional Officer  
Folsom State Prison  
20  
OTILA VEGA, X-Ray Technician  
21 California Rehabilitational Center at Norco  
22 ANITA M. BERGER, Former X-Ray Technician  
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P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN ROBERTI: Governor's appointees appearing today, we will go to Mr. Jerry B. Epstein, Member of the California Transportation Commission.

We will ask you what we ask all the Governor's appointees, and that is why you feel you're qualified to assume this position?

MR. EPSTEIN: Thank you, Mr. Chairman.

Am I allowed to read a short statement?

CHAIRMAN ROBERTI: Yes.

MR. EPSTEIN: I'm very pleased to be here today seeking confirmation of my appointment to the California Transportation Commission. I have a long-standing interest in transportation matters, and I'm proud to have this very special opportunity to serve the people of the State of California.

Since I retired from active real estate construction some 20 years ago, I've enjoyed giving back to my community by serving on a number of local and state commissions and charitable boards. Most notably, I served for five years, between 1985 and 1990, on the City of Los Angeles Board of Airport Commissioners.

As you might know, the City of Los Angeles owns four airports: LAX; Van Nuys, the largest general aviation facility in the world; Ontario; and Palmdale. The economic impact of these airports is over 42 billion in economic activity and over 450,000 jobs.





1           While President of the Airport Commission, I was  
2 instrumental in opening up the Palmdale Regional Airport to  
3 commercial air traffic.

4           We desperately need additional passenger and air  
5 cargo facilities in Southern California to alleviate the  
6 tremendous ground and air traffic problems that we have today.  
7 The Bay Area and San Diego, for example, also need to focus more  
8 attention on the vital role that aviation facilities play on our  
9 state's economy and on integrating our highway mass transit and  
10 aviation transportation systems. This is one issue I bring with  
11 me to the California Transportation Commission.

12           I also serve as President of the Los Angeles State  
13 Building Authority. We just completed the Ronald Reagan State  
14 Building in downtown Los Angeles, and I'm proud to say that, for  
15 the first time in 15 years, a state building came in on time and  
16 within the budget. Last year, the Legislature, you gentlemen,  
17 approved unanimously, and the Governor did sign your bill, which  
18 will permit the Authority to build an annex to the Ronald Reagan  
19 Building.

20           I bring this to your attention to inform you why I  
21 have taken on an assignment by my colleagues on the California  
22 Transportation Commission to examine the problems of Caltrans  
23 project delivery. I submitted my report on project delivery at  
24 our March meeting, which I hope that you've had a chance to  
25 read, which the Commission has adopted and circulated to you  
26 Members of the Legislature and other interested parties. I hope  
27 that the Legislature will take a close look at my  
28



1 recommendations, which I believe can help Caltrans operate more  
2 efficiently and more effectively.

3  
4 Particularly during this recession and time of  
5 economic distress, it's critical that we jump-start the economy  
6 through public works, and in particular, through the  
7 construction of transportation infrastructure which will meet  
8 the public's demands for congestion management.

9 So, as you can tell, I'm very excited about and I'm  
10 very committed to the positive role that the California  
11 Transportation Commission can play in our state in the next  
12 several years. I look forward to working on the issues of  
13 intermodal transportation links and systems, including airports,  
14 highway access, high speed rail, and project delivery, as well  
15 as the wide range of other questions which come before our  
16 Commission. And I look forward to working with you Members of  
17 the Legislature on transportation policy.

18 Once again, I'm pleased to have this opportunity to  
19 be here, and I'll be pleased to answer any questions that you  
20 might have.

21 CHAIRMAN ROBERTI: Any questions of Mr. Epstein?

22 The Senate Advisory Commission on Cost Control in  
23 State Government came up with a finding in its 1990 report to us  
24 that the Commission may be excessively influenced by the  
25 Governor's Office. We have had cases, in the past  
26 Administration, of the Governor just directly contacting the  
27 Commissioner, and the Commissioner being unsophisticated enough  
28 to even tell the press that they had changed their position



1 based on the Governor's phone call -- or, take that back, his  
2 staff's phone call.

3           What concerns us is, the California Transportation  
4 Commission was intended to insulate these decisions from  
5 political pressure. So, instead of a mixture of Legislative-  
6 Executive pressure, we now have what appears to be a commission  
7 which appears to be rather docile in the face of Executive  
8 pressure.

9           It has become so bad that I think Senator Kopp, who,  
10 I might add, is not looking at this from a partisan point of  
11 view, wants to totally revamp the Commission. Its intended  
12 point is to act as an independent decision maker, not taking  
13 into consideration pork barrel geographic considerations as to  
14 location of roads, and it has sort of degenerated into Governor-  
15 specific projects.

16           Do you have a response to this? Am I wrong?

17           MR. EPSTEIN: Well, sir, I'm a neophyte as far as  
18 being on the Commission. I've only been on since August.

19           The people that I have met on the Commission, in my  
20 viewpoint, anyway -- I've served on a lot of commissions -- are  
21 all very astute, very dedicated people who are there for the  
22 same reason that I'm there: if I can be of any help to  
23 alleviate the problems of congestion, the problems of mass  
24 transit whether it be highways or intermodal rail transit, or  
25 anything else, I know where I'm from. We are drowning in our  
26 traffic. I know where I'm from, we are frustrated sitting in a  
27 parking lot they call a freeway. I know where I come from, I'm  
28





1 ready to move.

2 I spent, as I said, five years on an airport  
3 commission, and it was only in my last year that we were able to  
4 open up Palmdale, which I think is the -- is the answer. I  
5 think that we had a very courageous Airport Commission some 25  
6 years ago that bought 18,000 acres out in Palmdale, and that  
7 will be, in my estimation, if they'll do what I hope they will,  
8 and turn that into our main regional airport. We have a nine by  
9 three mile rectangle, that if they're smart enough to keep  
10 people from moving in there, will not cause any noise or air  
11 pollution. But we've got to get people there. If I can get HOV  
12 lanes in there, we can get a mass transit system in there,  
13 there's a lot of things.

14 So, in answer to your question, Mr. Chairman, I don't  
15 know if I've answered it or not, but I'm not a politician. I'm  
16 strictly from the private sector, and I look at it that way.  
17 And I call it as I see it. I don't know any other way to play  
18 the game.

19 CHAIRMAN ROBERTI: Are there any other questions of  
20 Mr. Epstein?

21 SENATOR MELLO: I'm not going to disagree with the  
22 Chairman, but I just want to share some of my experiences I've  
23 had.

24 My district, of course, goes from Alameda County  
25 clear down to the end of Monterey County.

26 I've appeared before the Commission just a great  
27 number of times. We have a lot of highway projects in Monterey  
28



1 County, Santa Cruz, San Benito, and Santa Clara Counties. And I  
2 think I know all the Commissioners, you know, fairly well. Not  
3 as real close friends, but I've watched them operate.

4 And there's people on there that the Governor can  
5 sway them to some extent, you know, once they're confirmed and  
6 appointed, I don't know that that's happening. But they are --  
7 they've been very responsive, and I've sat there while other  
8 projects would come on, too.

9 I find them very independent. People like, well,  
10 Mr. Levy is no longer on there, I don't believe, but Joe Duffell  
11 and --

12 MR. EPSTEIN: Joe Duffell, I would say, is  
13 independent.

14 SENATOR MELLO: -- and our latest -- the professor  
15 out here from Davis.

16 MR. EPSTEIN: Dan Fessler.

17 SENATOR MELLO: Fessler, a very bright person. But I  
18 don't know how you could sway him if it's something he didn't  
19 fell, you know, the facts were there to support it.

20 I think you've touched on the problem about sitting  
21 in a parking lot called a freeway. We've just had 20 years of  
22 underfunding for our transportation, both freeways, highways,  
23 and rail, and other alternate forms of transportation.

24 Gasoline prices in Europe and around the world are  
25 around 2.50 a gallon, and the tax that goes to the government to  
26 support their roads are about a dollar and a half. If you look  
27 at the National State Legislature's comparison on a state-by-  
28



1 state basis, California is 50th, 5-0; we are the last of the 50  
2 states putting money into transportation.

3 And I think there lies the problem. We're just, you  
4 know, I know what happens in Los Angeles occasionally when I get  
5 down there, and San Francisco, Santa Clara -- gridlock at those  
6 peak hours. And I just wish we had more money to spend to help  
7 accommodate the needs around the state.

8 That's really where I think the problem is. We  
9 finally voted in, you know, more funds for transportation, but  
10 we're still, I would say, \$25-30 billion behind. That's the  
11 last figure that was given to me of what our highway needs are  
12 in California.

13 Is that a pretty accurate figure?

14 MR. EPSTEIN: Yes, sir, it is.

15 I couldn't agree with you more. We -- that's one of  
16 the things that we're looking into, again, is project delivery.  
17 Why do we have a half a billion dollars in the bank when it  
18 ought to be out on the roads getting people to work, getting  
19 things happening?

20 SENATOR MELLO: Well, they're moving on that 500  
21 million in fast-tracking projects right now to create the jobs;  
22 isn't that correct?

23 MR. EPSTEIN: Yes, sir.

24 SENATOR MELLO: So, I think there might be some of  
25 this. Well, the other day I was up. There was a move on to try  
26 to take money away from the Prunedale project.

27 MR. EPSTEIN: No, that passed, Senator.  
28





1                   SENATOR MELLO: No, I know it passed, but there was a  
2 move on. The move was on to try to divert some money into 280  
3 and finish that project up in San Francisco. And a very  
4 distinguished Member of the Legislature was there, and he -- in  
5 fact, when he got through making his presentation, they acceded  
6 to his demands pretty well, I guess, and I told the Commission,  
7 "I'd like to have the speaker present my program from Monterey  
8 County."

9                   But we thank you for approving it also. But it was a  
10 case of a much-needed project. I'm not saying his project  
11 wasn't worthy, but we've been going through the STIP program,  
12 waiting and waiting and waiting, and here we came up to a point  
13 where we almost lost it. But we didn't lose it, thanks to the  
14 Commission and your Executive Director.

15                  CHAIRMAN ROBERTI: Is there any opposition in the  
16 audience?

17                  Senator Beverly.

18                  SENATOR BEVERLY: Move the Committee recommend  
19 approval of the confirmation.

20                  CHAIRMAN ROBERTI: Senator Beverly moves the  
21 confirmation of Jerry B. Epstein be recommended to the Floor.

22                  Secretary, call the roll.

23                  SECRETARY WEBB: Senator Beverly.

24                  SENATOR BEVERLY: Aye.

25                  SECRETARY WEBB: Beverly Aye.

26                  Senator Mello.

27                  SENATOR MELLO: Aye.  
28



1 SECRETARY WEBB: Mello Aye.

2 Senator Petris. Senator Craven. Senator Roberti.

3 CHAIRMAN ROBERTI: Aye.

4 SECRETARY WEBB: Roberti Aye.

5 CHAIRMAN ROBERTI: The vote is three to zero;  
6 confirmation is recommended to the Floor.

7 MR. EPSTEIN: Thank you very much.

8 SENATOR MELLO: Can we leave the roll open for  
9 Senator Petris?

10 CHAIRMAN ROBERTI: Okay, confirmation will be  
11 recommended to the Floor. We're waiting to complete the roll.

12 Secretary will call the roll one more time. Senator  
13 Petris moves it be lifted.

14 SECRETARY WEBB: Senator Petris.

15 SENATOR PETRIS: What are we voting on?

16 CHAIRMAN ROBERTI: Mr. Epstein's confirmation to the  
17 California Transportation Commission.

18 SENATOR PETRIS: Can I ask him a few questions, about  
19 a half hour?

20 [Laughter.]

21 CHAIRMAN ROBERTI: No.

22 SENATOR PETRIS: Aye.

23 SECRETARY WEBB: Petris Aye. Four to zero.

24 CHAIRMAN ROBERTI: Four to zero; confirmation is  
25 recommended to the Floor.

26 Congratulations.

27 MR. EPSTEIN: Thank you very much, Mr. Chairman.  
28



1 CHAIRMAN ROBERTI: Mr. Dean Dunphy, Member of the  
2 California Transportation Commission, another flight conflict.  
3 That's because Mr. Gomez is going to last about three hours.  
4

5 Please, Mr. Dunphy.

6 MR. DUNPHY: Mr. Chairman, anticipating your question  
7 of why you [sic] think that I should serve, let me just give you  
8 about a 60-second background on myself, ending with the  
9 principal reason.

10 I'm a graduate from the University of Southern  
11 California in business finance. I started a construction  
12 company in San Diego in 1960, from which I retired in 1991.

13 I have served variously at the request of the present  
14 Governor in many capacities in San Diego, one of which was as  
15 the President of the Center City Development Corporation, which  
16 is the operating arm of the Redevelopment Agency for the City.  
17 That was from 1976 to 1984; I was President of that organization  
18 for seven of the eight years I was there.

19 Also, I served as President of the Chamber of  
20 Commerce in San Diego for two years.

21 Additionally, in the social area, for over 20 years  
22 I've been a board member of the Central Advisory Committee of  
23 the Salvation Army. I as its Chair for two years. That's  
24 important because I understand the needs of those less  
25 advantaged people in transit as well.

26 Following my service on the Center City Development  
27 Corporation, for a period of six years, from 1985 until 1991, as  
28 a matter of fact, the same month of my appointment to this





1 Commission, I served as the Chairman of the Board of the San  
2 Diego Transit Corporation. And therein lies the principal  
3 reason why I think that I'm qualified.

4 I have an orientation toward, and if I have a bias in  
5 transportation in is towards transit, it is toward bus and rail,  
6 but even more importantly, it's toward an integrated  
7 transportation system. And I feel very strongly about the fact  
8 that transit is and should a coordinated effort.

9 And in that regard, I hope to serve the Legislature  
10 and the Governor. I'd be happy to answer questions.

11 CHAIRMAN ROBERTI: Thank you.

12 Will you insulate yourself from Executive pressure?

13 MR. DUNPHY: Well, I'm happy to answer that question.  
14 I wish that I had got the question you gave Jerry.

15 CHAIRMAN ROBERTI: Same question.

16 MR. DUNPHY: First, I've -- I have known and worked  
17 with Pete Wilson since 1968. I worked with him on his second  
18 campaign when he served in the Assembly. And I've served him as  
19 -- when he was the Mayor, not as a Senator, and as the Governor.  
20 Fortunately, I've been appointed to this --

21 CHAIRMAN ROBERTI: I want to stipulate, most of our  
22 complaints came during the prior Administration, not Governor  
23 Wilson.

24 MR. DUNPHY: Let me tell you something that I know  
25 about the Governor. And that is, for eight years I was the  
26 point man for redevelopment of downtown San Diego, a fairly  
27 ambitious and important project. During those eight years, Pete  
28



1 Wilson didn't tell me once what to do, but he did ask me to get  
2 the job done. He supported me in the appointment of the people  
3 who served on the board, and with the freedom that a businessman  
4 can exercise in effectively a redevelopment, which is a real  
5 estate and finance proposition, we were able to effectively do  
6 it.

7 I'm sure you've visited San Diego and seen what we  
8 have brought about.

9 Since I've been on this Commission, Pete Wilson has  
10 not told me what to do or what to vote on.

11 And in further elaboration on the question about  
12 Executive influence for specific projects, we just finished the  
13 STIP. And when you get finished with the north-south split, and  
14 the county minimums, there is really very little opportunity for  
15 selective projects.

16 And I have had no influence from the Governor's  
17 Office on what specific project to approve or not. I just don't  
18 think -- he's not that kind of a guy.

19 However, with the experience that I've just detailed,  
20 you're darned right I would listen to him. But by the same  
21 token, we are not short of any suggestions from Senator Kopp and  
22 others in the Legislature.

23 So, I hope that I can perform a somewhat judicious  
24 role of listening to both and advising both. And I think that  
25 that's what the Legislature intended when they set up the CTC,  
26 is we are to advise and counsel in the best way possible, and  
27 let the Legislature and the Governor act.  
28



1 CHAIRMAN ROBERTI: Thank you, Mr. Dunphy.

2 Senator Petris.

3 SENATOR PETRIS: I'm sorry I missed what went before,  
4 so if I'm repeating.

5 I'm interested in the Great Train from San Jose to  
6 here. A tremendous success, much more -- you're in charge of  
7 that, I guess?

8 MR. DUNPHY: It was funded in part by CTC, correct.

9 SENATOR PETRIS: Which agency? Isn't it Caltrans?

10 MR. DUNPHY: Well, I believe Amtrak is going to be  
11 the operator, but the funds came in part --

12 SENATOR PETRIS: Out of the bond sale, the Hannigan  
13 bill.

14 MR. DUNPHY: Yes, the 116 bonds; correct.

15 SENATOR PETRIS: I thought it was administered by  
16 Caltrans. Am I wrong?

17 MR. DUNPHY: It is. We do not administer. We  
18 allocate.

19 SENATOR PETRIS: You just allocate the money and  
20 that's all?

21 MR. DUNPHY: We allocate the funds, and the  
22 Department operates under contract with Amtrak operating the  
23 service.

24 SENATOR PETRIS: Who sets the rates, Amtrak or the  
25 state?

26 MR. DUNPHY: I have no idea who sets the rates.

27 SENATOR PETRIS: That's not in your shop.  
28





1 MR. DUNPHY: No, sir.

2 SENATOR PETRIS: Well, then, I can't ask you the next  
3 question I had.

4 MR. DUNPHY: I think it's a very favorable rate, and  
5 it certainly -- as I understand, it's almost \$16 one way, and a  
6 dollar for a return trip.

7 SENATOR PETRIS: But they're planning to double it,  
8 and that was my question.

9 MR. DUNPHY: Well, I hope they do, because I hope --

10 SENATOR PETRIS: They're making lots of money right  
11 now, according to the reports I've heard.

12 MR. DUNPHY: I'm surprised. I would think that it  
13 would be fairly heavily subsidized.

14 SENATOR PETRIS: Not from the accounts that I've  
15 received.

16 MR. DUNPHY: I have not seen the operating report, so  
17 I'm speaking from my perception that that is a very good rate  
18 for that service, from -- through the Capitol corridor from San  
19 Diego -- or rather Sacramento.

20 SENATOR PETRIS: Yes, well, we'll have to find out  
21 elsewhere, I guess.

22 MR. DUNPHY: I'm afraid so.

23 SENATOR PETRIS: Maybe you and I should take a ride  
24 on it, then we'll know better.

25 MR. DUNPHY: I'd love to, and quite frankly, I'd like  
26 to see them get a couple more cars on that. Three cars is --

27 SENATOR PETRIS: It's not enough.  
28



1 MR. DUNPHY: I mean, it's nice, but it's not going to  
2 do it.

3 SENATOR PETRIS: They used to have nine or ten cars  
4 many years ago. And I used to ride the train in the early days  
5 when I was in the Assembly, at which time it was one car.  
6 Assemblyman Frank Lanterman and I used to take it from Oakland.  
7 He'd come up by train from L.A. because he wouldn't fly, and  
8 he'd tell me about the old days when they had a diner and they  
9 had nine or ten cars, and they had a lot of Legislators, and the  
10 public, and lobbyists, and newspaper people. It was very  
11 popular at that time as well.

12 Anyway, we'll pursue it another time since it's not  
13 directly in your shop.

14 MR. DUNPHY: Well I -- it gives me an opportunity to  
15 again suggest that my inclination is toward encouraging those  
16 transit elements which will increase traffic and get people off  
17 of the highways. The highways really are jammed to an  
18 overloading.

19 From San Diego to Los Angeles, which I'm more  
20 familiar with, we're running nine trains a day there.

21 SENATOR PETRIS: That's been very successful.

22 MR. DUNPHY: They're doing very well, right. And it  
23 took -- it took a lot of effort to get up to the nine trains.  
24 We're trying to add a tenth, but there are some scheduling  
25 problems in getting there.

26 But the frequency and dependability of the travel is  
27 what will encourage people to use that, and of course, balanced  
28



1 with a reasonable rate.

2 But I think we have to do more in transit. It's just  
3 imperative.

4 I'll give an example that I have a great deal of  
5 difficulty with. We recently reviewed an environmental impact  
6 report on the widening of Interstate 5 in Orange County between  
7 Highway 91 and 22. And the cost -- the forecasted cost, which  
8 is accelerated for several years, is \$100 million a mile for a  
9 widening of a freeway. And when it gets to Los Angeles, there  
10 is no present plan approved for widening into that area. And I  
11 think that there's going to be a traffic jam that will be the  
12 mother of all traffic jams if we don't do something to provide  
13 for continuity and a flow through that area.

14 It's the dollars, \$100 million a mile. It's just  
15 earth-shaking in my mind.

16 SENATOR PETRIS: What is that, property acquisition  
17 mostly?

18 MR. DUNPHY: About 40-45 percent, if I remember  
19 correctly, is right of way, and the balance is construction.

20 I just don't think we can keep spending money like  
21 that. We have to find an alternate way to move people and  
22 goods.

23 SENATOR PETRIS: Well, we keep saying that up here,  
24 but if we don't provide the alternate, we can't get people out  
25 of their cars, and we can't complain about the fact that they  
26 don't get out of their cars. We've got to have adequate public  
27 -- an alternate system.  
28





1 MR. DUNPHY: You have to have an acceptable  
2 alternate. That's what it needs.

3 SENATOR PETRIS: Thank you.

4 MR. DUNPHY: You're welcome.

5 CHAIRMAN ROBERTI: Is there any opposition in the  
6 audience?

7 Do I hear a motion?

8 SENATOR BEVERLY: Move approval of the appointment.

9 CHAIRMAN ROBERTI: Senator Beverly moves approval of  
10 Mr. Jerry Epstein's confirmation to the --

11 MR. DUNPHY: Dunphy.

12 CHAIRMAN ROBERTI: Excuse me. Epstein two, Dunphy  
13 none.

14 [Laughter.]

15 CHAIRMAN ROBERTI: Recommends Mr. Dunphy's  
16 confirmation to the Senate.

17 Secretary will call the roll.

18 SECRETARY WEBB: Senator Beverly.

19 SENATOR BEVERLY: Aye.

20 SECRETARY WEBB: Beverly Aye.

21 Senator Mello. Senator Petris.

22 SENATOR PETRIS: Aye.

23 SECRETARY WEBB: Petris Aye.

24 Senator Craven. Senator Roberti.

25 CHAIRMAN ROBERTI: Aye.

26 SECRETARY WEBB: Roberti Aye.

27 CHAIRMAN ROBERTI: The vote is three to zero;  
28



1 confirmation is recommended to the Floor.

2           Congratulations.

3           MR. DUNPHY: Thank you.

4           CHAIRMAN ROBERTI: We'd better not declare the vote,  
5 and Senator Petris moves that the roll be held open pending  
6 Senator Mello's return.

7           The confirmation of Robert L. Harvey, Member of the  
8 Unemployment Insurance Appeals Board, has been rescheduled for  
9 Wednesday, April the 29th.

10                   [Thereupon the Rules Committee  
11                   acted upon legislative items  
12                   on the agenda.]

13           CHAIRMAN ROBERTI: Senator Mello moves that the call  
14 be lifted on the confirmation of Dean Dunphy, Member of the  
15 California Transportation Commission.

16           Secretary will call the roll.

17           SECRETARY WEBB: Senator Mello.

18           SENATOR MELLO: Aye.

19           SECRETARY WEBB: Mello aye.

20           CHAIRMAN ROBERTI: The vote is four to zero;  
21 confirmation is recommended to the Floor.

22           Now we have the confirmation of James H. Gomez,  
23 Director of the Department of Corrections.

24           We heard Mr. Gomez last week, and we still had a  
25 couple of witnesses to go. So, is there anyone in the audience  
26 who chooses to speak in support of Mr. Gomez's confirmation?  
27 Please come forward.  
28



1 MR. NAVA: Senator Roberti, Members, I appreciate the  
2 opportunity to appear before you.

3 My name is Frank Nava. I'm here representing the  
4 Hispanic Law Enforcement Task Force in support of the  
5 confirmation of Mr. Gomez for Director of the Department of  
6 Corrections.

7 I want to preface my brief comments by, I guess,  
8 reminding you, if I may, that the Hispanic Law Enforcement Task  
9 Force is a coalition of California state and national  
10 organizations which includes: the Latino Peace Officers  
11 Association; the Chicano Correctional Workers Association; La  
12 Ley, which is a Los Angeles-based police organization; the  
13 Mexican-American Correctional Association; the League of United  
14 Latino American Citizens; the Mexican-American Political  
15 Association; La Raza Lawyers Association; the Mexican-American  
16 Legal Defense and Education Fund; and CAFE de California.

17 The primary goal of this Task Force is to advocate  
18 for the increased representation of Hispanics in the criminal  
19 justice system, particularly in the law enforcement profession.  
20 The Task Force has worked very closely over the years with the  
21 highest level policy makers of state law enforcement agencies on  
22 issues of concern to the Hispanic law enforcement professionals.

23 One of those policy makers, I am pleased to say, is  
24 Mr. Gomez. The Task Force has had the good fortune of working  
25 with Mr. Gomez prior to his current appointment, when he was  
26 Chief Deputy Director of the Department of Corrections.

27 He has always maintained open communications and made  
28





1 himself available to listen and discuss issues of concern to the  
2 member organizations, particularly those issues impacting  
3 Hispanic representation within the Department. We have met with  
4 Mr. Gomez regarding some very sensitive issues, and in all  
5 circumstances he has been objective, straight-forward, and  
6 indeed, fair.

7  
8 In previous discussions with him, we actually  
9 wondered, you know. He comes to us, again, from Santa Clara --  
10 a nice area, a beautiful place, a cushy job, if I may -- to  
11 this.

12 [Laughter.]

13 MR. NAVA: I don't know. But regardless, I think we  
14 all agree that Mr. Gomez comes to the department with extensive  
15 managerial and administrative experiences which have earned him  
16 the support of the correctional community.

17 The Task Force is confident that he will continue to  
18 serve the people of California well as the Director of the  
19 Department of Corrections. Therefore, we respectfully urge you  
20 to confirm Mr. Gomez as Director of Corrections.

21 CHAIRMAN ROBERTI: Thank you very much, Mr. Nava.

22 Senator Mello.

23 SENATOR MELLO: I'm not going to ask you a question,  
24 but in your statement about Santa Clara County, where he served  
25 as the Assistant Juvenile Probation Officer before coming here,  
26 you failed to mention that he was making \$135,000 a year there,  
27 and here, I think, it's \$105,000. Not bad, but \$30,000 less  
28 money.



1 I asked him at the time, because I've known Mr. Gomez  
2 for years, "My goodness, you're going to take a \$30,000 cut to  
3 go up and run our correctional system?"

4 MR. NAVA: Not only that, but he's going to get some  
5 gray hairs, I assure you, from it.

6 [Laughter.]

7 SENATOR MELLO: That's right.

8 CHAIRMAN ROBERTI: No, he's not.

9 [Laughter.]

10 SENATOR MELLO: Not too many, maybe not on the top,  
11 but the point is, he told me then, and I've known that -- I  
12 mean, why would you take a \$30,000 cut in today's -- just like  
13 why would you want to run for this kind of office here.

14 In his case, he's got a deep commitment, I think, to  
15 this profession, to the jobs, and what he's been doing. That's  
16 the only reason I can figure out why he's want to do it, and  
17 leave lovely, wonderful Santa Clara County, that I represent a  
18 big part of.

19 But I just wanted to add that to your statement.

20 MR. NAVA: And we agree wholeheartedly.

21 SENATOR MELLO: Thank you.

22 CHAIRMAN ROBERTI: Thank you, Mr. Nava.

23 Anyone else? Please come forward.

24 MR. HSIA-CORON: I don't know if this is the  
25 appropriate place for me to speak if you're conditionally  
26 supporting somebody?

27 CHAIRMAN ROBERTI: This is the time and place, right.  
28



1 MR. HSIA-CORON: Mr. Gomez may find with friends like  
2 me, who needs enemies.  
3

4 My name is Andy Hsia-Coron. I represent the teachers  
5 in the California Department of Corrections. I know Senator  
6 Mello well from meetings. He's my Senator in my area.

7 And we have been working with the Department over the  
8 last couple of years -- I know you've heard some from Perry  
9 Kenny last week from CSEA -- to try to improve the programs,  
10 especially in regards to preparing people to get out on the  
11 street and function, and not come back.

12 We had a very open ear in Director Gomez when we were  
13 there, and, you know, I'd like to say I can't blame Jim Gomez  
14 for the deteriorated conditions that he finds in the Department  
15 of Corrections. We can only blame him if he doesn't clean up  
16 the conditions in the Department of Corrections.

17 And anybody who's looked at the Department knows that  
18 things are in serious shape. You know, we've got 135 percent  
19 increase in personnel years over the last ten years, where the  
20 rest of state government got less than -- less than 30; I think  
21 it's close to 20. And it's drawing increasing amounts of a  
22 budget that need not grow. And I think that's the issue that  
23 our union is concerned about.

24 We represent people outside the Department of  
25 Corrections, so we don't have a great stake in just seeing one  
26 department grow at the expense of others.

27 And what I'd like to talk to you about very briefly,  
28 if you'll indulge me, is that the -- in other Departments of





1 Correction, especially in Canada, we're finding increasing  
2 evidence that we can keep people out of prison using very little  
3 more resources than we're using right now. And keep them out,  
4 not -- you know, actually being contributors to society, doing  
5 some pro-social kinds of things, rather than just not being a  
6 risk to folks.

7  
8 And during the period of time that we worked with the  
9 Director, we moved forward on a project called the Personal  
10 Responsibility Curriculum Program that invested about a half a  
11 million to a million of the state's money in trying to develop a  
12 program similar to the Canadian program, and similar to one that  
13 worked in the Youth Authority that cut parole costs in half.  
14 We're still strongly supportive of that.

15 I should congratulate or thank Mr. Gomez. He had  
16 a meeting with us about a month ago on the project, and he  
17 agreed to move forward with the pilot program.

18 Our concerns, and I hope you share those concerns --  
19 we also gave some letters to both Senator Roberti and Senator  
20 Mello about the project -- is that for innovation to happen in  
21 this Department, it's going to -- as Ben Franklin said, you can  
22 put all your eggs in one basket, but you'd better watch that  
23 basket very carefully. And in the case of the Department of  
24 Corrections, there's a great deal of hostility by the folks who  
25 run the individual institutions to educational innovation. I  
26 hear that from a lot of sources, and I know that from personal  
27 experience.

28 And I would ask you to inquire with Mr. Gomez how he



1 plans to ensure that we can move forward with these innovations  
2 so that we actually can get a chance to test them, see them  
3 through, and see if it's worth the public's, you know, further  
4 investing in trying these programs.

5 As we've said before, we have nothing to gain  
6 personally by having people stay on the street. We do better if  
7 the Department continues to grow. But we have a concern that  
8 the public can't afford to see this Department grow, and the  
9 public can't afford to be victims of crime.

10 And we're teachers, and we'd like to see our folks  
11 succeed on the streets.

12 So, as I said, this is a conditional endorsement. We  
13 don't see that you're going to get -- I mean, we see that  
14 Mr. Gomez is open-minded, but I think some commitments have to  
15 be made.

16 Thank you for your time.

17 CHAIRMAN ROBERTI: Thank you, and maybe Mr. Gomez can  
18 address your points as well.

19 Why don't you address them now.

20 MR. GOMEZ: Just very quickly, I believe that the way  
21 in which to bring the innovation he's talking about is to  
22 involve the wardens, to involve the teachers, and get some  
23 principals' involvement.

24 I've talked to Andy and others. This Department does  
25 not react real well to having things jammed down its throat on  
26 occasion, and on this issue, I believe that the best approach is  
27 to involve and get a supportive institution, supportive  
28



1 teachers, test it in that environment.

2 I have at least four institutions out there who've  
3 indicated their desire to be involved in the innovation. We'll  
4 find one, and we'll test it.

5 But I think the key principal is the involvement of  
6 those people that are going to do the testing, that they have  
7 the same kind of commitment that he has or I may have. So, I  
8 think you see the PERC program being instituted in an  
9 institution, and its success and failure should be measured upon  
10 how it handles the issue of recidivism and growth and  
11 development of that individual inmate.

12 And I feel comfortable that we have people out there  
13 that will make sure that happens.

14 CHAIRMAN ROBERTI: Thank you.

15 Next witness, please.

16 MS. CONNER: I want to thank Senator Roberti and the  
17 Members of the Senate Rules Committee for allowing me the  
18 privilege of testifying in support of the confirmation of Mr.  
19 James Gomez for the position of Director of the Department of  
20 Corrections.

21 I am Johnnie Mae Conner. I'm a retired state  
22 employee. My entire professional career was spent in both the  
23 Department of Corrections, the Department of the Youth  
24 Authority, the Youth and Adult Correctional Agency, and the  
25 Youthful Offender Parole Board -- a total of 30 years.

26 I started my career working in the Youth Authority as  
27 a supervisor in the institution, parole agent, and a consultant  
28





1 in Community Corrections. That was 21 years. Then I  
2 transferred to the Department of Corrections in Parole as  
3 administrative assistant to a regional parole officer, working  
4 as administrator of Staff Services. I went from that position  
5 to work in the Affirmative Action unit in 1978 in Central Office  
6 with the Department of Corrections. My first assignment was EEO  
7 investigator.

8  
9 After a very short period of time, I became the  
10 fourth woman to take over the huge job of Women's Program  
11 Manager for the Department. The Department was experiencing  
12 problems mainly with male staff in its treatment of females, and  
13 the Department at that time continued to recruit women to fill  
14 positions in the institutions. Women at that time had -- were  
15 not always treated equally in the institutional program.

16 However, I am convinced Mr. Gomez is aware of this  
17 problem and plans to make sure women can and will work in an  
18 atmosphere where they can be free of problems. He's a sensitive  
19 man and a concerned man. The Department needs both of these  
20 qualities in order to move forward in the future.

21 I also believe he is committed to being fair to all  
22 of his workers: females, ethnic minorities, and Caucasian  
23 workers.

24 I then went to work in the newly formed Youth and  
25 Adult Correctional Agency under Senator Howard Way. He was the  
26 Secretary of that Agency, as the Civil Rights -- I was the Civil  
27 Rights Undersecretary. I remained in that position for two  
28 years. I was then appointed to the Youthful Offender Board.



1 Over the past five years, in my retirement, I have  
2 been active in the Sacramento community. I served on the Grand  
3 Jury, and I'm presently on the city-wide Affirmative Action Task  
4 Force for Mayor Ann Rudin.

5 I am also presently on the board of the NAACP, which,  
6 as you might know, is concerned about the civil rights of all  
7 people. We had occasion, the President of the local branch of  
8 the NAACP, to talk with Mr. Gomez several months ago because, in  
9 the normal course of things, we receive complaints from  
10 sometimes inmates, sometimes the wives of inmates, and sometimes  
11 from employees within the Department. We went to Mr. Gomez and  
12 advised him of some of the concerns that we had. He assured us  
13 that he was aware of some of these problems, and that he has a  
14 plan of action, and plans in the future to change some of the  
15 things in the Department.

16 Because of my very long experience in the field of  
17 Corrections, and my present concerns for the fact that we have  
18 over 100,000 inmates locked up, 60 percent non-White, I'm in  
19 support of a Director who fully understands his role, has the  
20 interest and energy to carry out the mandates of his role, and I  
21 believe you will be happy with the results if Mr. Gomez is  
22 confirmed.

23 Thank you.

24 CHAIRMAN ROBERTI: Thank you very much.

25 MS. MARTINEZ: Senator Roberti, Members of the Senate  
26 Rules Committee, I want to thank you for allowing me the  
27 opportunity to address you today regarding the confirmation of  
28



1 James Gomez as Director of the California Department of  
2 Corrections.

3 My name is Norma Martinez, and I'm here today  
4 representing the Chicano Correctional Workers Association, the  
5 State Executive Board and membership, representing over 2,000  
6 members.

7 I am currently the Chapter President for the Los  
8 Angeles Parole Chapter, founded three years ago. I'm a parole  
9 agent. And the reason that the Chapter was formed approximately  
10 three years ago was to address disparate treatment of Hispanic  
11 parole agent staff in Region Three of the Parole and Community  
12 Services Division.

13 Upon our inception as a Chapter of CCWA, we called on  
14 the former Department Director to work out problems which we  
15 felt disparately affected Hispanics, and most especially  
16 Latinas in Region Three. Although meetings were held and  
17 dialogue went on, it never really went beyond that.

18 Since we've been meeting -- since we met with  
19 Mr. Gomez and since his administration, we have been extremely  
20 satisfied with positive changes which have taken place in the  
21 past year in the recruitment, hiring, and promotions of Latinos.  
22 We have found Mr. Gomez and his administrative staff to be  
23 honest, sensitive, and fair in hearing our concerns, and has  
24 taken action to begin to remedy past disparate treatment of  
25 Hispanics in Region Three and throughout the Department of  
26 Corrections.

27 As a Latina representing other Latinas in the  
28





1 Department of Corrections, the progress we are seeing by the  
2 recent appointment of qualified Latinas to management level  
3 positions is a clear indication that Mr. Gomez is committed to  
4 ending past practices.

5 Although much still has to be accomplished, we look  
6 forward to continue working for and with Mr. Gomez.

7 Based on the information presented here today, and on  
8 behalf of the Chicano Correctional Workers Association, we  
9 strongly support the confirmation of James Gomez to Director of  
10 the Department of Corrections.

11 CHAIRMAN ROBERTI: Thank you very much.

12 MS. MARTINEZ: Thank you.

13 CHAIRMAN ROBERTI: Next witness.

14 MR. BERMUDEZ: Good afternoon, Senator Roberti and  
15 Members of the Senate Rules Committee. I'd like to thank you  
16 for giving me the opportunity to address you today regarding the  
17 confirmation of Mr. James Gomez.

18 I'm here today -- my name is Rudy Bermudez, and I'm  
19 representing the Los Angeles Chapter of the Chicano Correctional  
20 Workers Association. The Los Angeles Chapter is the largest  
21 parole agent chapter of the Chicano Correctional Workers  
22 Association. Our representation, our membership, is comprised  
23 of parole agents from both Region Three and Region Four, rank  
24 and file, and management.

25 CHAIRMAN ROBERTI: I don't think you gave us your  
26 name.

27 MR. BERMUDEZ: My name is Rudy Bermudez.  
28



1 I am also a parole agent and Secretary of the Los  
2 Angeles Chapter. As my colleague, Norma Martinez, has stated,  
3 the Los Angeles Chapter was started -- was founded to address  
4 alleged discrimination against Latinos in the Department of  
5 Corrections. The patterns and practices that existed in Region  
6 Three discriminately and disparately treated Latinos, depriving  
7 them of employment and promotional benefits. The Chapter  
8 believed that the practices resulted in Latinos being under-  
9 represented in both management and rank and file positions  
10 throughout Region Three.

11 An example, qualified Latinas were consistently  
12 rejected on promotion to Parole Agent III, while lesser  
13 qualified non-Latinas were promoted in their place.

14 Region Three serves Los Angeles County. As many of  
15 you know, Los Angeles County's population is Latino and growing,  
16 at approximately 40 percent.

17 A Latina had never been promoted to a position of  
18 Parole Agent III or above in Region Three's history. Morale was  
19 very poor. The former administration was nonresponsive, not  
20 sympathetic, to the issues of the employees, and dialogue had  
21 ceased. Employees at the time had created a Legal Action Fund  
22 to remedy matters.

23 Mr. Gomez stepped in, and his administration has been  
24 very supportive to all -- to all employees. They have made  
25 inroads into eliminating alleged employment discrimination and  
26 creating a positive work environment for all -- all employees.  
27 Mr. Gomez has instituted a year-around recruitment to increase  
28



1 the number of qualified candidates entering into Region Three  
2 and other regions throughout the Department of Corrections.  
3 He's targeted protected groups to ensure that those that are  
4 below parity make parity. He has developed an Hispanic Advisory  
5 Committee to create dialogue and positive change which would  
6 promote a positive work environment for all employees and  
7 professionalize the Department even greater. And they have made  
8 positive administrative assignment changes in Region Three, and  
9 now we have fair and impartial interviews for hire and  
10 promotion. And I'm proud to say that a Latina has been promoted  
11 to the position of PA III.

12 On behalf of the Los Angeles Chapter, I urge you,  
13 Senate Rules Committee, to confirm Mr. Gomez to Director of the  
14 Department of Corrections, to continue the positive growth and  
15 happenings in our Department.

16 Thank you.

17 CHAIRMAN ROBERTI: Thank you, Mr. Bermudez.

18 Any questions? Thank you.

19 If the remaining witnesses could state who they  
20 represent and sort of not replicate what others have said, we'd  
21 appreciate it.

22 MS. GONZALES: Mr. Chairman, Committee Members, my  
23 name is Chris Gonzales. I'm the Sacramento-Folsom Chapter  
24 President of the Chicano Correctional Workers Association, and  
25 an officer at Folsom State Prison.

26 I'm here today to share with you my personal thoughts  
27 and wishes of my membership. Unfortunately, during confirmation  
28





1 hearings, most people tend to focus on the negative aspects of  
2 working conditions or personal experiences. You've heard  
3 Ms. Chacon, a CCPOA Chapter President from Patton Hospital,  
4 geographically detail her personal experience of sexual  
5 harassment. She spoke of her meetings with Mr. Gomez over this  
6 problem.

7  
8 Did Ms. Chacon speak of his obvious open door policy?  
9 Did she explain why he didn't send or direct a Deputy Director  
10 to handle her problem?

11 Mr. Gomez personally made the phone calls to the  
12 persons involved and make it clear that the harassment stop  
13 immediately. He took action promptly, and if the persons  
14 involved continue the harassment, I would hate to be in their  
15 shoes.

16 You will hear from a Folsom correctional officer  
17 speak of state waste, ineffective administrators, his person  
18 opinions. Will he speak of Folsom's recycling program? Will he  
19 inform this Committee of the over \$200,000 in combined savings  
20 and earnings? Will he speak of recent disciplinary actions on  
21 administrators found negligent in duty?

22 We all heard Mr. Gomez open his remarks and  
23 responses. He acknowledged problems within the Department of  
24 Corrections. He readily accepts the challenges facing him.

25 Never have we had a Director so open, direct, honest,  
26 and proactive. Recently, the Sacramento-Folsom Chapter of CCWA  
27 honored Mr. Gomez at his -- at its first honoring for the newly-  
28 founded CCWA Scholarship Fund. During his acceptance speech, he



1 stated, "Our future is in our children." Mr. Gomez not only  
2 realizes the problems facing us today, but he also understands  
3 the need for educating our children of the future.

4 He seeks solutions in dealing with the Department's  
5 problems of sexual harassment, and supports the forming of  
6 scholarship funds.

7 We have heard negative comments, false allegations,  
8 witness support and objections.

9 I am here today as the Sacramento-Folsom Chapter  
10 President of the Chicano Correctional Workers Association to  
11 inform you, the Committee Members, that CCWA stands united and  
12 firm in our support for Mr. Gomez. We hereby request that the  
13 Senate Committee confirm Mr. Gomez as the next Director of the  
14 Department of Corrections.

15 Thank you.

16 CHAIRMAN ROBERTI: Any questions?

17 Thank you very much.

18 We're going to break for ten minutes. I'll take the  
19 remaining people in order when we return.

20 [Thereupon a brief recess was taken.]

21 CHAIRMAN ROBERTI: The Senate Rules Committee will  
22 come to order.

23 We will take the supporters, then we will take the  
24 concerned people. I think this would be the proper way to do  
25 it. And then we will take the opposition, and then we will hear  
26 rebuttal and closure from Mr. Gomez.

27 Mr. Ceballos.  
28



1 MR. CEBALLOS: Yes.

2 Senator Roberti and Members of the Senate Rules  
3 Committee, my name is Robert Ceballos. I am the Northern  
4 California Vice President for the Mexican-American Correctional  
5 Association. I'm appearing before the Committee for our  
6 National President, Fred Martel.

7 I want to thank you for allowing me to appear and  
8 present our testimony in support of James H. Gomez as the  
9 Director of the California Department of Corrections.

10 I believe that you have a letter from Mr. Martel,  
11 dated March 21st, 1992, to voice our support.

12 The Mexican-American Correctional Association is a  
13 professional organization that's been in existence for over 20  
14 years. It is made up of professionals in different walks and  
15 different fields of life, both from Department of Corrections,  
16 Department of the Youth Authority, city, county, and state law  
17 enforcement officers, as well as other employees. Our  
18 membership also includes teachers, housewives, students, private  
19 business owners, employees out of the private sector, and  
20 lawyers, all working towards the common goal toward preventing  
21 delinquency, drug abuse, gang violence, and promoting education.

22 We recruit and prepare people for entering into the  
23 field of Corrections and law enforcement field, and we continue  
24 to work within the communities that we live in.

25 Speaking of Mr. Gomez, he is a proven administrator  
26 with a well-rounded experience. He has experience in both  
27 county and state agencies. As Director, Mr. Gomez has  
28





1 maintained an open line of communication and an open door policy  
2 with the employee groups. He has worked closely with the  
3 Hispanic Law Enforcement Task Force, of which MACA is a part of.  
4 Mr. Gomez has worked toward ensuring a balanced workforce. He  
5 is aware of addresses affirmative action needs.

6 We, as Hispanics, feel that we have gained in  
7 administrative positions during his tenure. We have enjoyed and  
8 worked -- a good working relationship with Mr. Gomez, and expect  
9 to do so in the future.

10 Most importantly, Mr. Gomez is a good administrator.  
11 He comes with varied experiences which, in our times of the  
12 budget problems that we face throughout the state, is very  
13 valuable and necessary.

14 In order to oversee the operations of an agency that  
15 supplies a service to and ensures the safety of inmates, staff  
16 and the public, one needs to address -- one needs to possess the  
17 qualities that I have mentioned. Governor Wilson saw that  
18 Mr. Gomez possessed these qualities and requested that he return  
19 to state service as the Director of the Department.

20 The question was raised earlier whether -- maybe the  
21 question was about his commitment. The fact that Mr. Gomez took  
22 a \$30,000 a year pay cut, I think, answers that question. He's  
23 surely not in it for the money. I think he has shown that he is  
24 -- shown his commitment to supplying the direction for the  
25 Department.

26 I just want, in closing, I want to restate MACA's  
27 vote of confidence and support to Mr. Gomez's confirmation as  
28



1 Director of the California Department of Corrections.

2 Mr. Roberti, Members of the panel and Committee, I  
3 thank you.

4 CHAIRMAN ROBERTI: Thank you very much.

5 Any questions? Hearing none, thanks again.

6 MR. MEOLA: I want to thank you, Senators, Mr.  
7 Chairman, for allowing me this time.

8 My name is Giacomo Anthony Meola. I am the State  
9 Vice President of the California Correctional Peace Officers  
10 Association, representing about 15,000 line staff which  
11 comprises about one-half of the total staff within the  
12 Department of Corrections within the prison system. We are the  
13 exclusive representatives of these individual peace offices that  
14 work within our system.

15 We're here to support Mr. Gomez on his confirmation  
16 for the Director of Corrections. Although we were presented  
17 last year with the highest budget deficit in state history,  
18 Mr. Gomez, through out negotiations process, was fair and honest  
19 and impartial throughout the process, and the only unit to come  
20 up with a contract in the State of California.

21 Mr. Gomez, we meet on a regular basis. One of the  
22 key ingredients to him is his respect for his subordinate staff,  
23 and to deal with individuals with most of the majority being  
24 satisfied.

25 He did something that was unprecedented in  
26 Corrections, visiting all 21 institutions for all regions,  
27 camps; talking to staff on all watches -- third watch, second  
28



1 watch, first watch -- through all communications, through  
2 supervisors, upper management, middle management, and rank and  
3 file staff.

4 Positive and negative comments were able to be  
5 addressed at the Director's level because of this.

6 And last, because I'd like to make this brief, the  
7 position of Director, we're talking about -- we are dependent,  
8 public safety is dependent, and our safety and our lives working  
9 inside the institutions are dependent on his decisions. And  
10 being on the edge of staffing as we are now, with the cuts we  
11 took in 1988, 1990, and '91, we feel very comfortable in  
12 Mr. James H. Gomez being made Director of Corrections.

13 Thank you.

14 CHAIRMAN ROBERTI: Thank you very much, Mr. Meola.

15 Any questions?

16 Next is Ms. Donna McKinney.

17 MS. MCKINNEY: Thank you, Senator Roberti. I'll take  
18 out my notes so I can get over my nervousness, I hope.

19 CHAIRMAN ROBERTI: Don't be nervous.

20 MS. MCKINNEY: My name is Donna McKinney, and I'm the  
21 President of Women in Criminal Justice. It is the only women's  
22 advocacy group for our profession. We have -- we're about  
23 200-300 members strong, and we are -- our goals are  
24 professionalism and career development. We're actively involved  
25 in networking, and training, and advocacy for women in hearing  
26 goals.

27 It's really my pleasure to be here today. We've  
28





1 previously submitted a letter of support for Mr. Gomez and  
2 offered to testify, and it is my pleasure to be here today to do  
3 just that.

4 We think Mr. Gomez is the right person for this job  
5 at the right time. The main reason we think so is that he  
6 recognizes the problem. We have a problem in the Department of  
7 Corrections in the way we treat people, the way staff treats  
8 staff. And Mr. Gomez has addressed this in every possible form.  
9 I've heard him personally myself at least five -- on five  
10 different occasions talking about it, and I don't see him  
11 everyday. So, everytime I have seen him, he has been talking  
12 about the same theme.

13 He's developing a new management training program,  
14 and that will be the primary focus about how people work with  
15 people, talk to people, treat people, which -- the bottom line  
16 of sexual harassment or gender harassment is the same as racial  
17 harassment, or any other kind of harassment. It's not treating  
18 people fairly; treating people differently; treating people  
19 disrespectfully. And Mr. Gomez sees that problem, sees that  
20 issue, has concentrated on it. I think it's the primary issue.  
21 It's the main thing that I've heard him talk about over and over  
22 again.

23 There's really two fronts to work on the issue of  
24 sexual harassment, in my mind. One is in hiring more women. I  
25 think that the problems will get better as the numbers increase.  
26 We're not in a hiring mode, as you've noticed, but even with  
27 that, we have some -- Mr. Gomez has instituted some specific  
28



1 written goals to improve the promotional levels and the hiring  
2 levels of women. And I think ultimately that is -- that is  
3 going to help the culture a lot.

4 He has very clearly defined that we do need to make a  
5 cultural change. We need to behave differently. And he's  
6 working toward that end on every front that I've seen, training  
7 and talking to people. He's done an ethics tape that's being  
8 shown on every street corner that we all know by heart.

9 I just can't imagine anyone with a stronger verbal  
10 commitment than Mr. Gomez has had in this area, and I think it  
11 really is the critical issue for our Department at this time.

12 I think I managed to get all the way through this  
13 without looking.

14 CHAIRMAN ROBERTI: Thank you. Very good testimony.  
15 You didn't even refer to your notes.

16 Thank you, Ms. McKinney.

17 MS. MCKINNEY: And we certainly hope that you will  
18 confirm Mr. Gomez as the Director of the Department of  
19 Corrections. We need him.

20 CHAIRMAN ROBERTI: Thank you, Ms. McKinney.

21 Any questions? Hearing none, thanks again.

22 Now we have two who indicated concern -- oh, excuse  
23 me, Suzie Cohen, yes.

24 MS. COHEN: I know, I'm short.

25 CHAIRMAN ROBERTI: No, no, no. Short, but you make  
26 your presence known. Very good.

27 MS. COHEN: Just not to take much of your time, let  
28



1 me cut right to the chase.

2           The Board of Directors of the California Probation,  
3 Parole and Correctional Association have reviewed Mr. Gomez's  
4 professional qualifications, his personal qualifications.  
5 Without any reservation, they support his confirmation.

6           We've all worked with Jim Gomez for the better part  
7 of ten years, and have no concerns at all about his not being  
8 the proper person for the job. He brings all of the caring that  
9 Ms. McKinney described, and all of the professionalism that all  
10 of you are aware of, and will serve the State of California and  
11 the Department of Corrections very well.

12           CHAIRMAN ROBERTI: Thank you very much, Ms. Cohen.

13           I see no questions.

14           Now we will go to the concerns, Ms. Cynthia De Mars.

15           MS. DE MARS: I'd like to thank the panel for  
16 allowing me to speak today. I have some real big concerns.

17           I'm a correctional officer at Folsom Prison. I've  
18 been with the Department, it'll be five years in January.

19           I -- I was a victim of sexual harassment by a  
20 supervisor. It lasted three weeks from the supervisor, but it  
21 went on a year and a half second/third hand harassment. The  
22 second and third hand harassers were never dealt with, and still  
23 to this point, they're back in the background, and anytime that  
24 they get a little -- a little chance to throw a dagger at me,  
25 they do.

26           I've reported it on many occasions, and I'm  
27 considered a troublemaker. And I'm not a troublemaker. I --  
28





1 there's trouble there, and it needs to be taken care of.

2 I feel that I have a right to work, and I have a  
3 right to work in an environment that doesn't have these  
4 stressers. It's pretty bad when the inmates aren't the  
5 stressers; it's your supervisors and it's the line staff in the  
6 management positions. They're second and third hand -- you  
7 know, they've done this to other people before.

8 The Department needs to have a special tracking to  
9 where they can keep tabs on these people.

10 Mr. Gomez did not create this problem. This  
11 problem's been going on for 20 years. I just have a concern that  
12 I don't want to wait 10 years for it to be fixed. I don't even  
13 want to wait five years for it to be fixed.

14 We, as decent human beings, which there are quite a  
15 few in the Department of Corrections, can fix this problem. We  
16 can help him. We can assist him. And it's not a telling.

17 It's -- we need to network, because the only way that  
18 we're going to get rid of -- if they want to call themselves  
19 [sic] "good old boys" of Folsom Prison, but I've nicknamed them  
20 "the pack of dogs", because that's exactly how they are. And  
21 you know, maybe in ten years the pack of dogs will have retired  
22 or gone or, or promoted -- God forbid if they happen to promote  
23 and go into other institutions, and, you know, bring their  
24 sickness elsewhere.

25 But there's wanna-be packs of dogs, too. There's  
26 their little predecessors that will take a person who's been  
27 harassed to the point to where you're absolutely sick to get out  
28



1 of your car to report to work. And they get their -- they get  
2 their little underdogs to do their dirty work as far as coming  
3 into your work area and blatantly saying degrading remarks to  
4 you, or standing outside underneath the window of the warden's  
5 office on a daily basis. I had to go through that over a  
6 three-month period, to where I was -- was talked to filthy,  
7 where the sergeant cast aspersions on me constantly. And they  
8 weren't very flattering. Or to draw keys from a control booth  
9 and be told through the glass, "Here's your keys, you slut."

10 No. This -- these are my concerns. These are very  
11 real issues, and all I had to do was -- "If you don't like it,  
12 get out of here. We don't want you anyway. You're a  
13 troublemaker. Transfer someplace else."

14 I have not transferred anywhere else and I have not  
15 quit because believe that I have a right to be there. I have a  
16 right to work there, and I have a right to work there in an  
17 environment that's not hostile.

18 But this does happen. And these are all supervisors  
19 that are going -- these are our sergeants that are going to be  
20 our lieutenants, who are going to be our captains, that are  
21 going to be our program administrators. It's not necessarily  
22 the line staff that's doing this. It's people that are in  
23 supervisor positions, and they use their positions as a way to  
24 blackmail for sexual favors from female staff, and from male  
25 staff, from medical staff. It's happening. I see it at Folsom,  
26 and it has to be happening elsewhere.

27 But the only thing, we need a Director that's going  
28



1 to hit this head-on and deal with it. I don't think that I  
2 would want the job that he's about ready to embark upon, but at  
3 least he's shown some concerns in these areas.

4         These areas -- you know, this is costing the  
5 Department of Corrections and the State of California lots of  
6 money, and yet they cover it up. They pretend like it doesn't  
7 exist, and it does exist, because not only am I a victim out  
8 there, there's several victims that are afraid to come forward.  
9 "No, Officer De Mars, don't tell, because if you do, you're  
10 never going to promote. You're never going to get off the first  
11 watch."

12         Well, if you have to sacrifice your morals and your  
13 principles to promote, or to get off a particular watch, or to  
14 get a certain post, that's not right. That's not -- that's not  
15 -- when I filed that application for the State of California  
16 to work for the Department of Corrections, that wasn't something  
17 that female officers had to do, perform sexual favors as a way  
18 to get that paycheck, or as a way to even have a job.

19         And those -- those are my concerns. There's -- the  
20 people that are repeat offenders are people that have -- we need  
21 to network them. When their name is brought up in an  
22 allegation, we need to keep records on them outside the  
23 institution because things are missing out of personnel files.  
24 "Oh, he's never had any problems before." "Well, why did he  
25 lose his stripes?"

26         These people are being demoted and then re-promoted.  
27 No more. It can't happen, you know.  
28





1 We need your help in helping him do what he needs to  
2 do, and that's a complete shaking up of the Department of  
3 Corrections, and telling them no, it can't happen.  
4

5 It destroys you mentally, physically, and  
6 professionally, and it's not fair.

7 So, you know, that's my concerns right there, is that  
8 if he's going to take this job, he needs to accept all the  
9 problems and get them taken care of as soon as possible,  
10 because it's -- inadvertently, it's going to make him look bad,  
11 because it escalates. And all these people that have their  
12 little juice cards and say, "Well, you know, he's my home-boy.  
13 I'll go to him and I won't have any problems." They need to  
14 burn the juice cards, and he needs to look at everything in its  
15 own merit and deal with it. Deal with it harshly, because until  
16 it's dealt with harshly, it's not going to come to an end.

17 CHAIRMAN ROBERTI: Thank you, Ms. De Mars.

18 You said secondary harassment. What did you mean by  
19 that?

20 MS. DE MARS: Well, in my particular case, I had a  
21 sergeant that -- I was transferred from a post that I had just  
22 gotten two days and brought out to a post to work for him. And  
23 it was a remote post to where it was just myself and the  
24 supervisor.

25 And he had explained to me that I was a retirement  
26 gift. He was going to be retiring in nine months, and that if I  
27 performed certain sexual acts, that I would get off first watch;  
28 I would have weekends off, and it would be easier for me to



1 promote.

2           And I was just beside myself, because I says, "Well,  
3 you know, I don't think that I want to be out here." This is  
4 just -- this isn't what I wanted. I thought that I was brought  
5 out to that position because my grooming standards were so -- I  
6 was working in the entrance gate at the old -- at Old Folsom,  
7 and when I was transferred there, they said it was because of my  
8 grooming standards and how I conducted myself at work.

9           Then when I went out there, he dropped the bomb. And  
10 he had removed ammunition from my state revolver, because I had  
11 to hand my revolver off to use the staff restroom. He removed  
12 the bullets and told me that if -- "This would be real easy to  
13 set you up." And he said, "You ought to really reconsider."

14           If you're losing your bullets from your revolver, you  
15 can be dismissed from your job, you know. You're responsible  
16 for the ammunition in your gun.

17           And then he justified it, and the Department at  
18 Folsom justified it by saying that it was a training practice to  
19 remove the bullets from the -- from the firearm while I was  
20 using the restroom.

21           I also had an incident to where he had a peep hole in  
22 the staff restroom where he took pictures of me while I used the  
23 staff restroom, and he told me that the pictures would end up in  
24 an inmate's house. And that's another -- if pictures of a  
25 female staff, especially with their pants down, ends up in the  
26 inmate's cell, it's -- you're not going to have a job. So, you  
27  
28



1 know, he was playing -- he was playing hardball.

2 And I had gone to a lieutenant. He said, "Well, I'll  
3 take care of it," and he didn't. And several sergeants knew,  
4 and finally I found a sergeant that I had trained to be a watch  
5 sergeant, and he had confronted me. He said, "Officer De Mars,  
6 what's wrong with you? You sure changed and lost a lot of  
7 weight."

8 Keep in mind, I lost 30 pounds over this three-week  
9 period, as well as I was losing hair, losing sleep.

10 And he had said to me, "What's going on?" And I told  
11 him. He was a Black male sergeant, and I said to him, I says,  
12 "You know, this is what's happening, but I don't want you to get  
13 in trouble."

14 And he said, "You know, Officer De Mars, it comes to  
15 a time where a person has to put their rank over what's right  
16 and what's wrong." He said, "This is wrong." And he went and  
17 he told.

18 And I filed a report, and it went up -- I went  
19 through the chain of command, and I was told by the captain that  
20 he couldn't talk to me because I didn't belong. You know, "You  
21 don't belong here. You're an outsider." Meaning that I had --  
22 I had come from another institution and transferred into Folsom.  
23 And the harasser had been with the Department 30-some odd years,  
24 and so he was a home-boy, and I was an outsider.

25 The female lieutenant also told me that that's just  
26 -- you know, you have to do what you have to do to survive, and  
27 you know, sometimes making waves isn't the right thing to do.  
28





1 But it got to a point to where if -- I had no intentions on  
2 being passed around the institution as a correctional fluff,  
3 that they call the females that happen to fall into this. And I  
4 felt that it was criminal, and it was wrong, and if I did tell,  
5 that they were going to put a stop to it, but that wasn't the  
6 case.

7           You know, they covered it up. They made excuses, and  
8 I had to go get an attorney outside to represent me. I even  
9 contacted the union, and I was told that it was a conflict of  
10 interest, and I had to take care of it myself.

11           These are the issues that need to be taken care of.  
12 And the perpetrator of the harassment, he was provided counsel.  
13 He was provided lots of things that me, as a victim --

14           CHAIRMAN ROBERTI: By whom?

15           MS. DE MARS: -- I wasn't provided.

16           By the State of California. They paid legal  
17 representation for him, and I had to go find counsel, private  
18 counsel to represent me.

19           These are the problems. This is the problem. It's a  
20 big problem.

21           And people -- they're reluctant to come forward, but  
22 I had to come forward 'cause it got to be where it was either I  
23 was going to quit, or I was going to fight. And I am not a  
24 quitter, and the fight hasn't been easy, and the fight's not  
25 over 'cause, you know, my -- the supervisor that was harassing  
26 me, he -- they let him retire where he got to burn all of his  
27 sick leave and holiday, and he retired exactly like he said he  
28



1 was going to in eight months.

2 And I don't really believe that it changed anything.  
3 And now I'm still out there, and there's still a little bit of  
4 nastiness still going on, but they also know that I'm not going  
5 to give up.

6 And I came here today to not blame him for the  
7 problems, but plead to him that if he is confirmed, he needs to  
8 know that this is a serious issue, and it destroys people. And,  
9 you know, he's my last hope, if he's confirmed. And whoever, if  
10 he is not, and the next Director comes along, I'm going to, you  
11 know, appeal to him to help us for this. It's a serious  
12 problem.

13 CHAIRMAN ROBERTI: Thank you very much, Ms. De Mars.  
14 We appreciate your testimony very, very much.

15 Has anybody a question?

16 SENATOR MELLO: Ask Mr. Gomez if he would like to  
17 respond.

18 CHAIRMAN ROBERTI: Yes, maybe Mr. Gomez would like to  
19 respond.

20 MR. GOMEZ: Her case came to my attention just  
21 yesterday, and I talked to her -- I met her for the first time  
22 today in the audience, and I've asked her to come in and meet  
23 with me.

24 I believe it occurred in 1990?

25 MS. DE MARS: Correct.

26 MR. GOMEZ: And I was in Santa Clara County during  
27 1990, but the behavior she talked about is unacceptable  
28



1 behavior. The way in which things are handled, if that's the  
2 way it was handled, is unacceptable.

3 I've told her I will get involved. I'll listen to  
4 her individually. I'll listen to the people that she talked to,  
5 the people that she talked about, and I'll personally get  
6 involved in the case.

7 I think that it's just unacceptable behavior by  
8 anybody in state government, private government, local  
9 government, private industry, or anywhere else. And I agree  
10 with her that we need to change that.

11 CHAIRMAN ROBERTI: Thank you very much.

12 SENATOR MELLO: I know that he was going to make his  
13 remarks at the end, but I thought it would be appropriate if he  
14 responded, because these are very serious charges and  
15 allegations.

16 I'm glad to hear that you're on top of them.

17 MR. GOMEZ: Some of the allegations, I think there  
18 was a court settlement on, from what I've been told. As I said,  
19 I have not got into the case itself.

20 But in the minor briefing that I have been provided,  
21 it's clear that she's been harassed from the information I've  
22 been given.

23 SENATOR MELLO: As he said, we went through the  
24 hearing for several weeks for the former warden, Mr. Campoy, who  
25 was out there for, I guess, 34 years. And they had a lot of  
26 testimony showing the same kind of incidents going on and on.

27 And it just seems like, they're still existing,  
28





1 according to your testimony here today. And you mentioned that  
2 one of the supervisors, the perpetrator, has since retired.

3 Are there others that are still working and active  
4 there that have --

5 MS. DE MARS: They have current -- you know, they're  
6 in a position right now that they're just waiting to be picked  
7 up as lieutenants. And that's the whole part that's just so  
8 sickening, that they're going to be our boss's boss. And it's  
9 scary, you know.

10 SENATOR MELLO: You can give those names to Mr. Gomez  
11 when you are going to get together.

12 The testimony he has made here, he says he cannot  
13 tolerate it; it's going to stop and end, and he's going to make  
14 sure that it disappears completely. And that's the way he's  
15 testified here before the Rules Committee, and I take him for  
16 his word.

17 MR. GOMEZ: We've got a lot of attitudes to change.  
18 It's a real -- you know, I made the comment, and she talked to  
19 me in the audience about five to ten years when I was up here  
20 previously.

21 I believe it's going to take a while; I really do.  
22 But I think you start Day One, and you make it a priority, and  
23 you push, and you let everybody in the whole place know that  
24 that it's important. You let everybody in the whole place know  
25 that that -- that when we find it, we're going to eradicate it,  
26 and we're going to deal with the people that are the cause.

27 And I can only guarantee you that I will do that. It  
28



1 will take time. It can't turn overnight, because you can't  
2 change those attitudes, but you can change behaviors. You can't  
3 change attitudes, but you can change behaviors in how people  
4 treat people when they're getting paid eight hours with the  
5 state.

6           SENATOR MELLO: I'd like to find out, when these  
7 allegations are brought before you, how do you proceed in a  
8 formal way? Is the district attorney involved in the local  
9 area? Do you have a prosecutor on your staff?

10           MR. GOMEZ: On issues of affirmative action and equal  
11 employment, they are brought first to the institution, and they  
12 are investigated by an Equal Employment Opportunity counselor on  
13 an informal basis.

14           If the person believes it's a formal, it typically  
15 will go to Central Office. And Central Office will work with  
16 the institution and assign an investigator, in many instances,  
17 from a different institution to look -- to look at these issues.

18           We have a new head of Affirmative Action in the  
19 Department. She's equally committed, as I am, to dealing with  
20 this issue.

21           But it's not the investigators that are going to make  
22 the difference. It's going to be the supervisors that make the  
23 difference. Each individual case can get handled on an  
24 individual case basis, but the devastation that she's felt, and  
25 others like her feel, you can't repay.

26           I believe we have to go back to the respect of  
27 people, to the employee and employer, the supervisors, the  
28



1 sergeants and lieutenants, supervising cooks, whatever, the  
2 educators, whatever the area may be, and deal at that level.

3 The investigation, obviously, has to be done, but the  
4 pattern and the acceptance in the environment is what has to  
5 change.

6 CHAIRMAN ROBERTI: Thank you very much.

7 Senator Petris.

8 SENATOR PETRIS: It looks like we're hearing the same  
9 old stories about Folsom that we heard years ago. We had, as  
10 you probably know, we had extensive hearings and complaints  
11 coming out of Folsom that were just totally unacceptable, as you  
12 put it.

13 Is there any kind of training or prevention program  
14 in place?

15 MR. GOMEZ: There's sexual harassment training, but I  
16 -- I'm not comfortable that the sexual harassment training that  
17 we provide, in and of itself, is enough. I really think we have  
18 to get back to a more basic issue.

19 Everybody knows what sexual harassment is. There's  
20 -- the lines that she drove -- I mean, there's over familiarity.  
21 That's not what she's talking about here. She's talking about  
22 gross behavior by men treating women as a piece of meat.

23 That's not -- that's -- that's -- you don't need any  
24 training for that. I mean, I think the issue is so fundamental  
25 in terms of us stepping back from it and getting back with  
26 staff, and in our whole training program at the Academy, and  
27 with how we treat individual staff members, that I think the  
28





1 sexual harassment training is critical, but it is not the key.  
2 It's not the component.

3 I also want to say, I think Folsom has improved, but  
4 I think Folsom's got some problems, and they have to be dealt  
5 with.

6 To the fact that people are willing to come forward  
7 and talk is -- I mean, I need to hear from individuals on this  
8 -- on this type of thing. The warden needs to hear from  
9 individuals on this kind of thing.

10 SENATOR PETRIS: It's kind of difficult, though.

11 MR. GOMEZ: Oh, it's -- it's -- well, that's because  
12 the environment is there.

13 There are 29,000 employees in this Department, and  
14 the majority of them are good, fine employees. There is a  
15 pocket. There's a pocket at many different locations that are  
16 not. We have to deal with that.

17 We can't have employees acquiesce to other employee's  
18 behavior, say, "It's okay; it's not affecting me."

19 I -- my other concern in this hearing is, in addition  
20 to her individual case, is I also don't want to paint the entire  
21 Department of Corrections with a brush of 29,000 employees.  
22 This is an issue. It's a very serious issue, but there are an  
23 awful lot of fine employees who want to make the same kind of  
24 change I'm talking about. I'm not by myself. I've got -- I've  
25 got 10,000 people that want to pick up this -- this same thought  
26 process that I have, that want to move on this issue.

27 And I think you'll see that kind of improvement.  
28



1                   SENATOR PETRIS: What kind of tools do you have that  
2 you can use?

3                   MR. GOMEZ: Well, I think you start -- I've met with  
4 every manager at every institution and talked about issues of  
5 sexual harassment, issues of respect for people. I've done it  
6 at 21 out of 23 institutions.

7                   Every forum I'm in as the Director, I bring it up.  
8 I've had hour-and-a-half discussions. I've met with a variety  
9 of different groups.

10                  I have asked for the Adverse Action Task Force -- we  
11 have an Adverse Action Task Force in the Department -- to give  
12 some recommendations. I've asked for my head of Affirmative  
13 Action to give some recommendations.

14                  But I think it's going to be a global issue of  
15 dealing with respect for people. And I don't have as well-laid  
16 out a strategy as I'd like to have, Senator.

17                  SENATOR PETRIS: Let me ask you this. If I were one  
18 of the persons she talked about, what is it that you can do that  
19 should frighten me about my job?

20                  MR. GOMEZ: Terminate you, demote you.

21                  SENATOR PETRIS: Now, what does that take for  
22 termination?

23                  MR. GOMEZ: It takes -- it typically takes  
24 corroboration. Takes one other person -- one other person that  
25 was -- that was aware of it.

26                  SENATOR PETRIS: Can you terminate someone without  
27 going through a hearing?  
28



1 MR. GOMEZ: No. But no, I can terminate them, then  
2 they have rights to what's called a Skelly hearing, and then a  
3 hearing in front of the State Personnel Board, and then they  
4 have a right to go to court after that.

5 SENATOR PETRIS: But you can take the initial action  
6 and terminate if you are satisfied from your investigation --

7 MR. GOMEZ: Yes, and in fact --

8 SENATOR PETRIS: -- and felt it was well justified?

9 MR. GOMEZ: -- just in the last three weeks, I can  
10 think of two terminations and one demotion from a captain to a  
11 C.O. that I've taken in the last three weeks.

12 SENATOR PETRIS: On that issue?

13 MR. GOMEZ: Yes, not just at that prison.

14 SENATOR PETRIS: I imagine that the word spreads.

15 MR. GOMEZ: Well, I hope it does. I hope it does. I  
16 hope the message is clear.

17 SENATOR PETRIS: It should have some kind of an  
18 impact on the others.

19 Well, I hope you'll keep at it. It's really  
20 disgraceful, and I'm sure it's only a handful compared to the  
21 total number you're talking about, but it only takes one to make  
22 your life miserable.

23 MR. GOMEZ: Right. People are destroyed.

24 SENATOR PETRIS: That's right.

25 Thank you.

26 CHAIRMAN ROBERTI: Carmen Rojas.

27 MS. ROJAS: I'd like to thank the Committee.  
28





1 I'm Carmen Rojas. I'm also an officer at Folsom  
2 Prison.

3 I have some concerns. First of all, I was listening  
4 to you speak, and you're saying you have the authority to  
5 terminate people for this type of action.

6 MR. GOMEZ: That's correct.

7 MS. ROJAS: Okay. Now, at what point does that take  
8 -- I mean, how does that news get to you?

9 MR. GOMEZ: If an investigation is performed, and the  
10 investigation finds sexual harassment, at that point in time  
11 they make a recommendation to the warden of that institution.  
12 The warden makes a recommendation of a penalty and works with  
13 the head of Affirmative Action. It comes up to Central Office.  
14 If the penalty is above 10 percent, I personally review it. If  
15 it's below 10 percent, I typically do not.

16 So, it depends upon what the recommendation is.

17 The Assistant Director of Affirmative Action, the  
18 Deputy Director of Institutions, review comparable cases to find  
19 comparable penalties -- a comparable penalty in terms of how  
20 people have been treated in the past, and what they believe with  
21 our legal staff we can justify through the State Personnel Board  
22 and through the court system.

23 So, depending upon the behavior itself, and the  
24 actual verification of that behavior, it can be as strong as a  
25 demotion, as strong as a firing, or as weak as a letter of  
26 reprimand or a verbal counseling, depending on the activity  
27 itself.  
28



1 MS. ROJAS: How often do you think this information  
2 gets to your office?

3 CHAIRMAN ROBERTI: I think I'd better have you ask  
4 these questions through the Chair.

5 MS. ROJAS: Okay.

6 I was curious how often he believed that this  
7 information gets passed on to him.

8 I know from experience that a lot of times it stops  
9 at the institution. You go through the chain of command; it  
10 goes no further.

11 We have -- we haven't been schooled on where to go.  
12 I mean, there's no organization for us to turn to. There's no  
13 one -- no one there.

14 CHAIRMAN ROBERTI: That is a good question.

15 Say an officer at Folsom is sexually harassed. What  
16 is her first recourse?

17 MR. GOMEZ: Her first recourse is to file within the  
18 institution and handle it at the institution level. If they  
19 feel --

20 CHAIRMAN ROBERTI: Within Folsom itself?

21 MR. GOMEZ: Within Folsom.

22 If they feel that they're not going to be treated  
23 fairly, or it's not an issue that they would want to bring to  
24 Folsom Prison, they can come directly to Central Office to the  
25 Affirmative Action Office in Central Office. And we handle all  
26 significant complaints of sexual harassment out of Central  
27 Office.  
28



1 CHAIRMAN ROBERTI: So, is for some reason she  
2 wouldn't want to file the complaint in Folsom, maybe because she  
3 person with whom she's filing the complaint is in league with  
4 the harasser, she would have --

5 MR. GOMEZ: She would have the ability to come --

6 CHAIRMAN ROBERTI: -- the ability to come to the  
7 Central Office.

8 MR. GOMEZ: Yes, clearly.

9 And -- but she's going to have to say who it is.  
10 She's going to have to have us confront that individual to have  
11 to do the investigation.

12 It's -- there are people that will come forward and  
13 say, "I want to give the information, but I won't go on record,  
14 and I won't deal with it. I just want to let you know that this  
15 is happening." That's one level.

16 The other level is, "I want to file a formal  
17 complaint against Jim Gomez on this issue."

18 CHAIRMAN ROBERTI: So, there's two things you can do.  
19 The lighter methodology is sort of like a letter of -- like a  
20 notice that this is happening, and that the authorities should  
21 know that this is happening.

22 The more severe is that, this is an outright formal  
23 complaint. A formal complaint could be issued -- it could be  
24 written up at Folsom or at the Central Office.

25 MR. GOMEZ: Right. Clearly, it has to be written up,  
26 and it has to be signed by the complainant.

27 I mean, I could give you an example, I think, in this  
28





1 particular case. My information tells me that one of the cases  
2 that she may be talking about, that actually happened. Whether  
3 it was investigated by Folsom or outside of Folsom, I'm not sure  
4 of right now, but an investigation was done and action was  
5 taken.

6  
7 There are a lot of people that don't report. There  
8 are a lot of people that feel uncomfortable reporting at Folsom  
9 Prison to Central Office. And part of our job is to make sure  
10 that people are comfortable that that avenue is available to  
11 them.

12 I'm sorry that she didn't know that that avenue was  
13 available. That's an example of us having to do a better job of  
14 getting that out to the field in terms of that availability.

15 CHAIRMAN ROBERTI: Senator Petris.

16 SENATOR PETRIS: Has the Department ever tried using  
17 an ombudsman from the outside to make periodic visitations,  
18 check things out, like in the service the I.G.?

19 MR. GOMEZ: Not on this issue, no, we've not.

20 SENATOR PETRIS: Are they used on other issues?

21 MR. GOMEZ: I'm trying to sit back and think right  
22 now.

23 We have our own Inspector General Office within the  
24 Department, but it would not handle this issue. It does  
25 reviews.

26 Our Affirmative Action Office is right now the  
27 vehicle that all of state government use, which is your own  
28 internal investigative capability. It is not necessarily tied



1 to the institution, and I think that's the key.

2           The people that come in and investigate, and come up  
3 with the finding, don't have to go back and live there, which is  
4 one of the key components of a Central Office investigation, is  
5 if I bring a deputy warden from Susanville or from Cal Patria,  
6 or from CIM, to come and review this and come up with a finding,  
7 they then go back to that institution. They provide us the  
8 finding, then we take the action based on that.

9           So, in most of the significant sexual harassment  
10 complaints, they're not done by the institution themselves.

11           MS. ROJAS: Some of my concerns were, I believe that  
12 the Department of Corrections needs to set up a training system  
13 for victims that have been sexually harassed. Let them know  
14 where they can go. Help them obtain counseling.

15           In my opinion, sexual harassment is -- is rape on a  
16 different level. These people need counseling. It's hard to  
17 deal with.

18           As Ms. De Mars spoke of, the second hand harassment  
19 is overwhelming, and what are you going to do? Everytime  
20 somebody says something that's not kosher to you, are you going  
21 to run, tell your supervisor? Or are you just going to go on  
22 and deal with it, go on and do your eight?

23           These things also need to be addressed. These people  
24 need to know that this is not part of their job. They are there  
25 to do a job, not to go there. They're not dating -- they're not  
26 going there for a dating service. The state does not pay these  
27 people to solicit for sexual favors, and that's what they do.  
28



1 I mean, these are some serious issues that need to be  
2 addressed.

3 CHAIRMAN ROBERTI: If I could stop you there, maybe  
4 that is a suggestion, that maybe there should be -- maybe you  
5 have this, I don't know -- a training, not necessarily for the  
6 perpetrator, but for the person who is going to come in contact  
7 with sexual harassment.

8 I don't know if I'd recommend that for every state  
9 agency, but it just seems so pervasive at the Department of  
10 Corrections. I mean, if a woman -- I'm not telling you anything  
11 I don't think you don't know -- if a woman is hired, I think  
12 she's got to expect that she's going to be hit on. That's  
13 probably an easy way to put it.

14 I mean, it's just -- with all the hearings we've  
15 heard, I mean, it just seems like it's inevitable. I just think  
16 maybe the women who are hired have to be told this is what may  
17 happen, and this is what you can do.

18 Now, I don't know if you have a --

19 MR. GOMEZ: I think we do some of that, but I think  
20 her point about providing counseling for victims of sexual  
21 harassment is a good point.

22 We have an employee assistance program. That may not  
23 be enough. It's an issue I'll go back and take a look at.

24 These are devastating events in people's lives, and I  
25 am more than willing to go back and take a look at the issue of  
26 some counseling services for victims of sexual harassment.

27 And also, our Affirmative Action Office provides  
28





1 counseling. A lot of people sometimes just want to talk; they  
2 want to call and they want to talk, and they want to say, "What  
3 do you think? Give me some advice; give me some counsel." We  
4 have that available.

5 But I think when you get to the more significant  
6 issues that she's -- the real dirty sexual harassment stuff, I  
7 think at that point in time, we have an obligation to look at  
8 counseling programs, and I'm more than happy to go back and take  
9 a look at that.

10 I don't -- and you used a term -- I don't believe  
11 it's pervasive in the Department of Corrections. I believe it's  
12 there. I don't believe it is representative of all the  
13 employees in the Department.

14 CHAIRMAN ROBERTI: And you may be right.  
15 Unfortunately for us, when we get -- the time for us to hear  
16 about it is during hearings, and of course, it may give us a  
17 view that it may be far more expansive than is the case.

18 MR. GOMEZ: The fact that two women have come forward  
19 from Folsom Prison to this hearing to speak about it means  
20 there's a problem. You have to be blind not to see that.

21 This is not easy for them to come up and do this.  
22 This is not easy.

23 MS. ROJAS: We'll suffer from it. They -- they won't  
24 do anything illegal now, because we've all formally filed  
25 before.

26 The gentleman I filed on no longer works for the  
27 Department of Corrections only because he did it again after he  
28



1 was demoted.

2 So, we will have to suffer.

3 MR. GOMEZ: Can I make a comment on that? I really  
4 think it's important.

5 CHAIRMAN ROBERTI: Yes.

6 MR. GOMEZ: I feel for this lady. When she made the  
7 complaint that she did, in 49 days Folsom Prison had that person  
8 demoted from a lieutenant to a C.O. That's a major action in  
9 our Department; it's a two-level demotion.

10 She's right. Six months later, he did a different  
11 but similar kind of behavior, and he was terminated as a C.O.  
12 Did not learn from the first event.

13 She was clear when she filed, but within a very short  
14 period of time, an investigation was conducted, and action was  
15 taken on that particular case. A two-level demotion in that  
16 case was quick and significant action.

17 It obviously was not enough. The person didn't  
18 learn; went back two levels, and within, I think, a six-month  
19 period was terminated.

20 So, I've reviewed the case, and that's an example  
21 where Folsom Prison, when it became -- when they became aware,  
22 they moved very rapidly on that particular case.

23 MS. ROJAS: But that's only an isolated incident.

24 If it were to have been one of the home-boys, as they  
25 put it, one of the good old boys, that -- it wouldn't have been  
26 so quick. It would have lingered for a long time.

27 I don't believe that most of the women are aware of  
28



1 the avenues that they can take to seek help. I know I wasn't.  
2 I was just very fortunate that I had some very good supervisors  
3 that listened to me and felt that what was taking place was not  
4 moral, and they didn't believe it should be happening. So, they  
5 helped me. I was very fortunate.

6 I had also -- I also think that we need to touch  
7 bases with other harassment, not just sexual. There are people  
8 out there being harassed everyday because they're Black, because  
9 they're Hispanic.

10 Folsom Prison is very backward. It's basically like  
11 the Keystone Kops. It's its own clique. And they -- they  
12 definitely need to be looked into. They have an associate  
13 warden there who gave me a really bad time because I filed; has  
14 given numerous people bad times: Debbie Garcy, he was involved  
15 in that. I believe he was involved with De Mars, and other  
16 harassment cases.

17 And I just wonder if maybe Mr. Gomez can do something  
18 about continually employing these people or promoting them.  
19 Instead of saying, "Okay, you've been a bad boy; let's put you  
20 up to the next rank so we don't have to hear from you," kick him  
21 down a few, you know. Take the air out of them. Say, "Hey,  
22 look. What you're doing is not right."

23 And I think that we need to have a task force to --  
24 to work on these things, and not just the sexual harassment  
25 classes. Anybody can listen to, "Okay, now this is sexual  
26 harassment; this is not, and this is what will happen to you."  
27 Well, they all know that if they're good to Lieutenant  
28





1 So-and-so, nothing's going to happen to them. And that's the  
2 way Folsom Prison works at least. I don't know about other  
3 institutions, but I imagine they're similar.

4 You talked about training supervisors, but you can  
5 train them and train them, but you can't teach an old dog a new  
6 trick. If they don't want to learn, they're not going to learn.  
7 These people, a lot of them have very low morals. They don't  
8 believe what they're doing is wrong.

9 So, I'm in hopes that maybe we can get together and  
10 put a stop to this. I think it's -- it's amazing that it goes  
11 on.

12 I'd also like to see that these -- they have State  
13 Personnel hearings. And this is not -- you know, what goes into  
14 these hearings is not public knowledge. I'd like to know why?

15 MR. GOMEZ: I think the Peace Officer Bill of Rights  
16 and other employee bills of rights do not allow some of this  
17 material to be public for both sides.

18 MS. ROJAS: Oh, I see, but if it goes to civil court,  
19 it would be public.

20 MR. GOMEZ: That's correct.

21 I'm just telling you I think that under the Peace  
22 Officer Bill of Rights, and under the employees', that that  
23 information cannot go public until after an action has been  
24 taken. Once an action has been taken by us or the State  
25 Personnel Board, at that point in time I think it's public  
26 information. So, it depends upon the point in time during the  
27 process.  
28



1 CHAIRMAN ROBERTI: Senator Petris.

2 SENATOR PETRIS: What particular job do you have  
3 there and what are your duties?

4 MS. ROJAS: My duties? I'm a correctional officer.

5 SENATOR PETRIS: What does that mean to a layman?

6 MS. ROJAS: To maintain safety and security of the  
7 institution.

8 SENATOR PETRIS: You're in uniform?

9 MS. ROJAS: Yes.

10 SENATOR PETRIS: And you're armed?

11 MS. ROJAS: Depending on where I work.

12 SENATOR PETRIS: Where are you armed and where are  
13 you not?

14 MS. ROJAS: We -- on gun post, you're armed, meaning  
15 you're on a gun walk or in a tower or on a transportation  
16 detail.

17 SENATOR PETRIS: Do you work in teams or pairs?

18 MS. ROJAS: When you're in a block, yes, sir. When  
19 you work with other officers, you work in pairs.

20 SENATOR PETRIS: Where does this harassment take  
21 place?

22 MS. ROJAS: It can take place anywhere. I was  
23 assigned to the mail room. It was myself and two other  
24 officers, male officers, and one -- one sergeant. And then  
25 female -- free staff is what we call it. It took place there.

26 It can take place walking on a tier. I've been  
27 walking in my work area. I've had an officer brush by my  
28



1 bottom. And I don't mean, you know, like when you walk in  
2 public, you expect to bump into somebody. It's more than --  
3 than that. I mean, you know, you see somebody bent over or  
4 something, you don't walk up and put your groin against their  
5 bottom. I mean, that is a little bit, you know, too much.

6 It can happen anywhere. I've been a victim recently.  
7 I've been grabbed. I've had my arms twisted. I've been elbowed  
8 in the -- in my ribs because I wouldn't comply to his wishes.  
9 He wanted to have an -- an affair with a discrete married woman.

10 Well, you know, I -- I don't think that's acceptable  
11 in the workplace. I mean, not that I would go for it anyways.  
12 I love my husband, and I'm very happily married. It's -- you  
13 know, it's ridiculous.

14 So, it can happen anywhere. In my -- the past, I've  
15 been called at home. The lieutenant, he got my phone number out  
16 of Personnel, which they're not supposed to do, but he did.  
17 Called me at home; asked for sexual favors. Asked if he could  
18 come to my home, which caused an upheaval in my home. My  
19 husband was livid. He said, "What is this person doing calling  
20 you?" And I explained to it -- explained to him, you know, and  
21 he says, "Well, you have to do something."

22 Well, anyway, so it can happen on the job. It can  
23 happen off the job.

24 SENATOR PETRIS: How long have you been there?

25 MS. ROJAS: At Folsom, for four years.

26 SENATOR PETRIS: Were you at another one before?

27 MS. ROJAS: Yes, I was at Vacaville.  
28





1           SENATOR PETRIS: For how long?

2           MS. ROJAS: Two years.

3           SENATOR PETRIS: Did similar things happen at  
4 Vacaville?

5           MS. ROJAS: I've never been a witness to it.

6           SENATOR PETRIS: Nothing to you?

7           MS. ROJAS: Nothing to me, no. I've not even see it  
8 take place. They were a little harder on it. They -- it --  
9 they didn't play the good old boys system as much as Folsom  
10 Prison does.

11           SENATOR PETRIS: How soon did it start after you were  
12 assigned to Folsom?

13           MS. ROJAS: Um, probably six months, only because I  
14 was assigned to a tower by myself for five of those six months.

15           SENATOR PETRIS: Did any of the other women employees  
16 warn you to be careful, on the lookout, and so forth?

17           MS. ROJAS: They just said, you know, just stand up  
18 for yourself, you know. Don't be afraid to say no.

19           Well, I found out saying no isn't always, you know --

20           SENATOR PETRIS: It's not the final word?

21           MS. ROJAS: Yeah, I mean, 'cause in both instances  
22 that I've acquired -- or been involved with, no didn't stop at  
23 no. I mean, I even thought of different ways -- very mean, very  
24 abrupt ways -- to say no, and they still didn't click on. You  
25 know, they just say, "Oh, I'm going to try again. I've got to  
26 try again."

27           I don't know if it was their ego or what. It can --  
28



1 it happens in different form; it happens in different places.

2 I mean, the mentality there for some reason amongst  
3 the male staff changes from the time they enter the Department.

4 And honestly, I've never had any problems from any  
5 inmates, which seems really amazing. It seemed like they would  
6 be the ones making these statements, "Oh, baby," about your  
7 bottom, and things like that. But it's the male officers, and  
8 it's allowed to happen.

9 And these aren't just isolated incidents. There's  
10 many people out there that are having problems, not just sexual.  
11 Some of them racial. A gentleman was terminated fro his job.  
12 He has a Master's in criminal justice. And not terminated from  
13 the state, but a sergeant fired him from his position because he  
14 was Black, not because he wasn't performing the job right. Just  
15 because he didn't like the color of his skin.

16 I mean, to me this is appalling. It shouldn't go on.  
17 And it's -- it seem overwhelming at Folsom Prison though.

18 But I'm hope -- in hopes that when you're reconfirmed  
19 [sic], hopefully you're reconfirmed, that you can make some  
20 changes, and this -- this will stop.

21 Like I said, if we all get together, and we work  
22 together, things will change. We can't keep going on like this,  
23 and the state can't afford it. I mean, come on. These people  
24 are -- are selling the state down the tubes. It's costing me,  
25 you know, a state -- a taxpayer a lot of money.

26 MR. GOMEZ: I understand.

27 CHAIRMAN ROBERTI: Thank you very much, Ms. Rojas.  
28



1 We appreciate it.

2 Rebecca Feagins.

3 MS. FEAGINS: Thank you very much for having me.

4 My name is Rebecca Feagins.

5 At the present time, I'm working with the Community  
6 Connection for felons coming out of prison.

7 CHAIRMAN ROBERTI: Could you talk a little bit closer  
8 to the microphone? Yes.

9 MS. FEAGINS: At the present time I'm working with  
10 the Community Connection, and -- for felons coming out of  
11 prison. It's an outreach for the felons in order to help them  
12 have a new place.

13 But anyway, my topic on it is also on sexual  
14 harassment and assaults by CDC officers on the convicts  
15 themselves.

16 I was going to read what I have because I'm not good  
17 at speaking in groups.

18 I wish to begin my statement by giving a short  
19 introduction of myself. My name is Rebecca Feagins, and due to  
20 my drug and alcohol addiction, I have been in the institutional  
21 systems since I was ten years old. I've done 13 years in  
22 juvenile and adult prisons during these years.

23 COURT REPORTER: Please slow down.

24 [Laughter.]

25 MS. FEAGINS: Oh, I'm sorry. I'm scared.

26 I've done 13 years total in juvenile and adult during  
27 these last years.





1 I do want to stress, though, that I'm clean and sober  
2 three years as of September 1st.

3 During my life inside, I experienced a lot of  
4 unwarranted abuse. I have been physically hit and challenged.  
5 Due to my sexual orientation, I have been searched by an officer  
6 with open palms that touched me about my breasts and between my  
7 legs.

8 When I would protest against the nonprofessional  
9 touching, I'd be cuffed or be locked down with the treat of  
10 lockdown in Segregation and more abuse, and more abuse. The  
11 fear I felt escalated -- escalated the years that brought me to  
12 the prison. The fears that encouraged my addictions and afraid  
13 of social, normal life that I never experienced until I became  
14 clean and sober.

15 I want to add to that, that a lot of the fears that  
16 -- that men and women come into prison with are, as I was  
17 speaking with somebody today, stems a lot of it through sexual  
18 abuse and battering through their childhood. So, when they do  
19 enter the prisons, they enter with a lot of issues that aren't  
20 even touched.

21 Now I'm working to become a drug and alcohol  
22 counselor. I'm going into the ministry with jails, prisons, and  
23 institutions as my priority.

24 When a woman or man goes into prison, of all that  
25 should be feared and distrusted, correctional officers in the  
26 system should be worthy of trust. I've come to speak -- I've  
27 come to speak on a growing problem in our prison system.  
28



1           The rate of sexual harassment by male officers on  
2 female inmates has escalated. The growth is due to the fact  
3 when an inmate writes a 602 complaint form on the violations  
4 against them, the CO2 [sic] form tends to get misfiled, lost, or  
5 treated as a threat, and/or the inmate placed in a Security  
6 Housing. Then the inmate must endure more harassment and abuse,  
7 maybe even to the greater intensity. The offending officers  
8 know nothing will come of the complaints, so they will feel  
9 invincible. The bad behavior is excused due to the woman or  
10 man's being incarcerated.

11           I personally have seen women put against the wall,  
12 told to assume the position, was not searched but groped,  
13 grabbed, and asked or demanded of sexual favors. There are  
14 women who have been forced into sexual acts due to being caught  
15 breaking prison rules, and told to put out or be written a  
16 serious CDC 115, which would have taken a parole date.

17           These women comply out of fear. No woman is  
18 encouraged to report an offense, for she knows that what is  
19 taught inside is, if you're doing time, you don't have any  
20 rights.

21           I am able to give names of women who have just  
22 recently been molested, threatened, and/or raped by male  
23 officers, but they are afraid. They have been threatened with  
24 retaliations if they speak. These threats are also from the  
25 watch sergeants and INE, Investigating and Enforcement.

26           These women are eligible to the same rights as any  
27 woman or man on the outside. We have the right to say no, and  
28



1 no should be sufficient. No retaliations.

2 And I want to add to that that I have \$100 phone bill  
3 at my home right now, trying to get all the information I could  
4 for this hearing. These women have been cut off. They have  
5 been physically taken from the phone from me. They have been  
6 told, "If you speak another word, you're going to lose all  
7 visiting privileges."

8 And one woman, as I'll speak in here, has had  
9 phenomenal threats taken to her. An officer at NCWS Stockton  
10 has sexually harassed a woman to the degree of physical violent  
11 threats. The officer had taken off his badge, stepped into her  
12 cell and hit, badgered, and threatened the woman to the point of  
13 her being in fear for her life.

14 When the inmates try to push a 602 complaint against  
15 the same officer, the author of the complaint was placed in  
16 isolation for 27 days on a three-day segregation CDC infraction.  
17 The 602 was lost during this time, and the officer threatened to  
18 put her six feet under if she did not back off. And I was there  
19 when the threat happened.

20 Another woman has been raped. Just recently, in the  
21 last month. Was an evidenciary done? No. Did the medical  
22 staff check for damage done? No. Nothing was done about it. I  
23 work with Sexual Assault and Domestic Violence in Yolo County.  
24 We checked into this on a daily basis. Nothing was done. This  
25 woman is in fear for her life. I talked to her on the phone,  
26 and she was like -- she spoke on the process of running. She is  
27 petrified.  
28





1           She was told that if she opens her mouth and tries to  
2 speak about what happened, she would do the SHU program, and  
3 that's the Security Housing Unit about the size of your closet.  
4 It's a room.

5           This woman is petrified, as justly the rest are, of  
6 retaliation against them.

7           I spoke to this inmate three days ago, and she was so  
8 afraid, she was shaking. The threats are coming from the  
9 controlling staff of the Stockton Prison, and she is now housed  
10 at Live Oak facility, and the officer is still on duty at  
11 Stockton.

12           A woman was molested at Live Oak by a contract  
13 worker. She complained, a 602 written, and of course, she was  
14 lost in the 602-shuffle. This woman was transferred to Stockton  
15 and locked down for weeks. This inmate is back at Live Oak with  
16 a threat that if she speaks of or complains about the violation  
17 against her, she will be punished, and is still be sexually  
18 harassed now by a CDC officer.

19           I could go on and give many instances of sexual  
20 physical violations, but I would be accused of trying to  
21 filibuster this hearing.

22           These women have been -- given me permission to use  
23 their names, but I feel that that would place them in danger of  
24 retaliation beyond your control.

25           I was told to ask for a promise of no retribution or  
26 retaliation against me, but I don't see where you have that  
27 power. I'm praying that by bringing this to your attention,  
28



1 you, the Director of the prison system, will investigate these  
2 violations and issues.

3 I work for Yolo County Sexual Assault and Domestic  
4 Violence Crisis Intervention, and I have been trained in rape  
5 crisis and evidenciaries. Our major item stressed is, no one  
6 has the right to violate another person, no matter who, what, or  
7 when.

8 Since when did sexual, emotional, and physical  
9 assault become not a crime of people incarcerated? Since when  
10 has this system allocated a victim of abuse to be indentured to  
11 isolation? Why are women forced to fear the system that claims  
12 to want to help?

13 When a person is raped, the victim has been  
14 demoralized, shamed, removed of self-esteem. He or she is left  
15 with a case of issues that require careful counseling and needs  
16 to know that the perpetrator is in the wrong, not the victim.

17 The California Penal Code defines rape as an act of  
18 sexual intercourse accomplished against the victim's will by the  
19 use of force and fear. In California, any form of sexual  
20 contact carried out against a person's will is a crime, whether  
21 the person is male or female, period.

22 I see no stipulations in the institutions, prisons,  
23 or jails in this definition that takes and alleviates the  
24 prisons and institutions. I see nowhere in any of the  
25 definitions I have looked up in any of the penal codes or any of  
26 the offenses that have been taken to court where they allow the  
27 institutions and the prisons to be not heard and prosecuted for  
28



1 their offenses. It's not happening. No one's being prosecuted.

2       The trauma of rape and sexual assault is traumatic.  
3 To add to being incarcerated, added to the fears, then we are  
4 just setting up the incarcerated victims' return to drugs and  
5 alcohol and an unsafe, unrealistic lifestyle, which will bring  
6 the victim continuously back into the prison system.

7       The long-term effect of rape in a normal setting,  
8 traumatic. But the effect in the prison or incarceration  
9 situation could be fatal. He or she may never see nor have the  
10 changes of recovery. To recover requires trust. The system you  
11 tell these people to trust is untrustworthy.

12       I would say, in conclusion, but I know that unless  
13 you, the Directors of the system, take action and control to  
14 make these institutions safer, there'll be no conclusion.

15       How many women and men must be victimized by your  
16 officers before you step in and implement safe changes, programs  
17 to educate the training facilities to be aware of the bad  
18 elements being placed in uniform?

19       Let's allow these women a safe due process given them  
20 by the federal protections laws to press charges against the  
21 perpetrators without retaliation against the victims.

22       Where do these women turn to? We offer nothing for  
23 counseling and support inside the prison system. To receive  
24 medical care can be denied by the watch commander. These women  
25 are being denied their civil, humanitarian rights.

26       I ask that an investigation of these issues be  
27 implemented immediately. Please, before a woman fights back and  
28





1 gets hurt again.

2 If this happened out there, out here in freedom's  
3 society, we, you, I, would be in an uproar. Everything would be  
4 done to take care of the physical, emotional, and psychological  
5 needs. The perpetrator would be prosecuted to the full extent  
6 of the law.

7 How far must these crimes go before you take control  
8 over your officers?

9 And I thank you for your considerate time.

10 CHAIRMAN ROBERTI: Thank you very much, Ms. Feagins.

11 MS. FEAGINS: You're welcome.

12 May I say one other thing, please?

13 CHAIRMAN ROBERTI: Yes, please.

14 MS. FEAGINS: This is really quick. I'm shaking like  
15 a leaf.

16 This was the hardest thing I've ever done. I'm  
17 bringing to you an issue. I want to respect your position  
18 because I work very hard to respect the law now, and I, too,  
19 would give everything in my power to help reordinate [sic],  
20 recoordinate some of the laws that are now helping prisoners  
21 come into action.

22 One of the things that is happening, though, is I am  
23 going into the ministry. And I work with MCC churches, which is  
24 an open church to all orientations -- Black, White, sexual  
25 orientation, gay, lesbian. Anything you so desire, we try to  
26 cover all issues.

27 I've been trying to help issue a prison ministry, and  
28



1 we're being stopped. CIW, the California Institution for Women,  
2 has had the MCC church in it. I have asked, I have written  
3 letters in the last two years to bring this about so that we can  
4 get in the prison and counsel brothers and sisters that are of  
5 the gay and lesbian orientation that want to worship as  
6 Christians. And a lot of the Protestant ministers inside the  
7 institutions will not allow them. I, myself, have been asked to  
8 leave the Protestant ministry during church when I was in a  
9 prison because I was tattooed lesbian. He felt that I was a bad  
10 influence.

11 CHAIRMAN ROBERTI: Who makes the decision on that?

12 MS. FEAGINS: The head clergy, deacon, pastor,  
13 Baptist, Protestant, Catholic, whatever is heading that  
14 institution's worship services.

15 I feel that the people that I have talked to are  
16 being denied their right to worship. I know myself, I'm a  
17 lesbian, and it does not bother me to state this -- it's a really  
18 strange statement. And I'm a Christian. I like it, and I'm  
19 clean and sober due to my God.

20 And I feel that I have an opportunity here to help  
21 other people who have gone through the garbage that I've been  
22 through. And I'm a victim of just about every type of abuse you  
23 can imagine.

24 I want to be there. But we cannot be there if we're  
25 not allowed in.

26 There are people who want to help who are not of this  
27 orientation, but do want to bring the word into these people,  
28



1 and they belong to our church. They are of the straight  
2 faction.

3 So, I also place before you --

4 CHAIRMAN ROBERTI: Are there any, to your knowledge,  
5 openly gay or lesbian ministers --

6 MS. FEAGINS: Oh, yes.

7 CHAIRMAN ROBERTI: I know that, but in the prison  
8 system?

9 MS. FEAGINS: No. Oh, excuse me, forgive me. Yes,  
10 there are. At CIW, again, like I said, MCC is down there. And  
11 the Reverend Jean, who is heading the CIW Free Spirit MCC, is in  
12 there at the present time, but she is not a -- not a --

13 MR. GOMEZ: She's not a paid employee.

14 MS. FEAGINS: Yes, thank you; appreciate it.

15 MR. GOMEZ: She's a volunteer.

16 MS. FEAGINS: Yeah, she's a volunteer.

17 I could go back into 1972, when I first started my  
18 time in '69, when we had an open lesbian warden, but  
19 unfortunately, we had a Christian group also, but that was  
20 booted out very fast. There has never been anybody on the  
21 payroll, as far as my knowledge, since then at all. It's not  
22 allowed. Immoral, unjust, unsocial, whatever someone wishes to  
23 place -- whatever category, whatever hat you want to put on it.

24 But their issues are there that need to be met, and  
25 these people are there. Whether we agree or disagree with their  
26 attitudes, and their orientations, or their religious needs,  
27 they need to be met. And the more that we meet, the less that  
28





1 will come back.

2           And I am sitting here as an example, because I am a  
3 28-year person of your system. I stayed 28 years in the  
4 California penal system, and I'm making it. And I'm doing it.  
5 And I can say that these people need it, and I want to help.

6           So, I'm bringing that up now, hoping that that will  
7 also open up for further investigation that we can, as the MCC  
8 church, be available for the prisons in this area -- Folsom,  
9 Stockton, CIW, even as far down as Madera -- to go in and be  
10 available for the brothers and sisters, and anyone that wishes  
11 to have us.

12           And I thank you for your time.

13           CHAIRMAN ROBERTI: Thank you very much.

14           Senator Petris has a question for you.

15           SENATOR PETRIS: I'm wondering if we can ask her to  
16 share the specifics with Mr. Gomez, and ask him to check it out  
17 and, maybe, let us know what happens?

18           MR. GOMEZ: We'll be happy. Those are very serious  
19 charges she made.

20           SENATOR PETRIS: That's right.

21           MR. GOMEZ: And we will have an investigator contact  
22 her tomorrow or tonight, at her leisure, and take the  
23 information. And we'll investigate it, and we'll report back to  
24 Rules. Those are very serious charges.

25           Regarding the issue of religion, we have Catholic,  
26 Protestant, Jewish, and Muslim clergymen within our  
27 institutions, about 80 positions that are paid.  
28



1 We also have probably 500 to 1,000 volunteers, a  
2 tremendous volunteer effort that goes into the prison system  
3 from all different faiths, gay and lesbian on occasion, you name  
4 it. It comes into the prison system in terms of a voluntary  
5 basis.

6 On a paid basis, the only thing we pay at this point  
7 in time, about 80 positions' worth, are the Catholic,  
8 Protestant, Jewish, and Muslim.

9 MS. FEAGINS: Forgive me, Mr. Gomez, but there hasn't  
10 been a gay or lesbian volunteer enter a Northern California  
11 penal institution in over ten years. Not at all.

12 We have -- I got a document at home to show you where  
13 the courts have said we were allowed to enter Folsom, and the  
14 head pastoral [sic] person said, "You enter our prison, and  
15 I'll give you nothing but Hades."

16 So, no, sir, we have not allowed to.

17 And the other thing issuing on the investigation,  
18 that's great. But I need to know on record that when these  
19 women speak up, they're going to get out of prison, and they're  
20 not going to get bumped when they get out. Because one woman  
21 who is violated right now is violated due to severe harassment.

22 MR. GOMEZ: I'm not going to give you that guarantee.

23 I do not have any information, other than your word,  
24 at this point in time that these are true facts. And for me to  
25 sit here and give you that guarantee would be ludicrous.

26 I will give you a guarantee that we'll investigate  
27 it, we'll look at it, but I can't sit here and tell you that  
28



1 these are fact, that they're substantiated, that they're  
2 corroborated, that there're individuals that are going to be  
3 charged, that they're going to get out of prison.

4 No, they're not going to get out of prison. We're  
5 going to take a look at the issues, and if there're problems,  
6 we'll move them if they need to be moved to a different  
7 institution. If they feel retaliation is possible, we can -- we  
8 can do those kind of things.

9 But to get out of prison, no. I'd be --

10 MS. FEAGINS: That's not what I'm saying.

11 MR. GOMEZ: -- not doing my duty.

12 MS. FEAGINS: That's not what I'm saying.

13 I'm saying --

14 SENATOR PETRIS: You don't have that authority.

15 MS. FEAGINS: Yeah. What I'm saying is that these  
16 women are concerned that when they leave prison, when they press  
17 charges against these officers, that when they walk off the  
18 gate, this officer could step before them without a badge and  
19 hurt them.

20 When they are inside the prison, these officers, when  
21 you're not looking, will hurt you. They will hurt you. I've  
22 witnessed it.

23 These women are scared to death. They have been told  
24 -- this one woman has been told that if she does anything, she's  
25 going to go to a SHU program. They will set her up. She's  
26 afraid. Petrified to come forward.

27 That's why I'm saying, all I want to know is that if  
28





1 they speak up, I give you their names and numbers -- which I  
2 have them on my person right now -- that nothing is -- they're  
3 not going to get hurt inside. They're afraid of that, because  
4 they're being hurt right now, and no one's doing nothing about  
5 it.

6 MR. GOMEZ: We will look at each individual case  
7 based on what they tell us.

8 And I will guarantee you that we will try to have no  
9 retaliation take place, as you define retaliation.

10 I -- I don't believe, as a general rule, retaliation  
11 takes place in the Department on an issue like she talks about,  
12 but there are issues that it does happen. But as a general  
13 rule, no. Retaliation doesn't take place.

14 But if these women are so concerned, we more than  
15 likely -- we will track them. We'll follow them.

16 I feel comfortable with the kind of commitment I'm  
17 making.

18 And I have my Chief Deputy and the head of  
19 Affirmative Action who'd be happy to meet with you when you turn  
20 around and leave.

21 MS. FEAGINS: Thank you.

22 CHAIRMAN ROBERTI: Thank you, Ms. Feagins.

23 The next witness is Gregory Ford.

24 MR. FORD: My name is Gregory Ford. I'm a  
25 correctional officer at Folsom State Prison.

26 I'm extremely grateful to the Department for giving  
27 me a job. I've struggled with a dyslexia problem all my life,  
28



1 and to have a job like this, I'm very grateful.

2 I am concerned about the Department. It has been  
3 polarized since I've been in there, since '86.

4 I come to the Department with approximately 17 years  
5 of military experience in various jobs, such as Presidential  
6 security at the Western White House, drug enforcement in the  
7 Caribbean. I could mention guerrilla warfare, and information  
8 collection practices on spying and espionage and terrorism  
9 against United Armed Forces.

10 I -- I thought and I would like to, you know, make a  
11 contribution to the Department, so I jumped at the chance when  
12 Dr. Ed McNair offered me a chance to do something. I don't like  
13 feeling helpless when somebody comes up to me and says, "What  
14 can I do about somebody who's -- who's harassing me into a  
15 corner? What can I do?"

16 You know, I know we're trained. I know we have  
17 certain types of classes that say, yes, you have to document  
18 this sexual harassment. But it's just not enough. It isn't  
19 working. It wasn't effective.

20 So, I have attempted to put together a program that  
21 would be a high speed source of data retrieval for the  
22 Department. I have somewhat of an expertise in computers and  
23 computer bases. I -- in fact, I'm the inventor of the  
24 artificial intelligence guarded thought chip. I also am  
25 developing the liquid light circuitry, okay.

26 I know that doesn't have any place here, but I do  
27 have some expertise, so I was asked to set up this violence  
28



1 management program. And the violence management program is  
2 based on predicting certain types of violent inmates, behavior,  
3 the different groups that perpetuate violence within the  
4 Department.

5 And also, I realized that the Department is getting  
6 so big, and the budget is so big, it also takes on kind of a  
7 feudal-type situation: 21 institutions on line, with 21 wardens  
8 almost like kings, each one has his own semi-autonomous state.  
9 There has to be some kind of system for diagnostic purposes.  
10 Okay, how healthy is an organization, how healthy is that  
11 institution?

12 So, I -- I spent several thousand dollars of my own  
13 money. I contacted several corporations. I received the  
14 permission and the go-ahead from my warden and my chief  
15 deputies.

16 I mailed a plan for this proposal to Director, then  
17 Chief Deputy Director, Gomez, Robert Denninger, and then James  
18 Rowland who was the Director at the time, and Mamie Davis.

19 I received positive feedback from the Director. In  
20 fact, the Director sent a letter to Senator Presley to go ahead  
21 with the program.

22 The program was based on, besides behavioral  
23 statistics and predictions, corporate predictions on how healthy  
24 an organization can be, which, of course, were based on  
25 individuals who communicate.

26 At that point, I made several presentations of a  
27 proposal and the computer software to go with it. And I've  
28





1 offered this system to the Department of Corrections, free of  
2 charge, just take it, set it up.

3 The system has been effective in the outer provinces  
4 of Australia. It's broken up an organized crime ring. The  
5 Department of Corrections in Australia thinks high accolades of  
6 the system.

7 I basically hope my -- what my problem with this  
8 proposal has been is that I've run into cronyism: the threat of  
9 sexual harassment being exposed; the threat of organized crime  
10 -- organized gangsters within the system being too positively  
11 dealt with, dismantled, their leadership and infrastructure  
12 taken apart.

13 I made the proposal. Everyone has liked it so far,  
14 but when I took it back to Folsom Prison, I was informed, after  
15 Dr. John Galloway and Dr. Tom Johnson -- Dr. Tom Johnson being  
16 from the Trilateral Commission on Crime, and Dr. Galloway being  
17 from Australia -- and the Net Mat Corporation, I was informed  
18 that, no, my system is too much of a danger. It's too apparent.  
19 It will -- it will present problems in the system too quickly to  
20 the top people, and it also allows the top person to carry a  
21 brass back. In other words, he can thump somebody who's doing  
22 wrong, and it's readily apparent where the loss in the system  
23 is.

24 So, I'm -- I'm at this point. I've virtually been  
25 told, "Look, you want to press this issue? Fine, go ahead.  
26 Maybe you can press the issue of three years of adverse actions  
27 and three years of appeals to go with it. Now, if you can  
28



1 afford that, fine. Go ahead. But otherwise, you drop the  
2 project right now."

3 I do it out of benevolent concern. I don't like  
4 being helpless. I've created something --

5 SENATOR PETRIS: Excuse me.

6 Who told you that?

7 MR. FORD: It was an administrator at Folsom Prison.

8 SENATOR PETRIS: High up?

9 MR. FORD: Very.

10 I don't like seeing these women put in this position.  
11 I don't like -- for instance, I don't like going on to the B  
12 Folsom Yard with Dr. Tom Johnson and Dr. McNair, and having to  
13 dive for cover as the bullets plowed up ground 30 feet in front  
14 of us while two inmates were stabbed.

15 My system does predict. It does help, and it has  
16 proved itself effective.

17 I just don't like being put in the position of not  
18 having the captain of this ship being able to say, as I asked  
19 Director Rowland to do, to say, "Hey, okay." If you don't want  
20 the program, fine; we'll drop it. But I don't want adverse  
21 action threats. I don't like the thought of paying a lot of  
22 money for adverse action threats.

23 You know, what I'm concerned of, I'm concerned about  
24 right here, is if this man can actually impose the power of that  
25 office that he is applying for to actually control these people?  
26 That's what I'm concerned about, and that's why I feel in  
27 opposition.  
28



1 I have put out something. I have struggled, and I've  
2 done it out of benevolence.

3 CHAIRMAN ROBERTI: Thank you, Mr. Ford.

4 Any questions?

5 Maybe, Mr. Gomez, you could respond.

6 MR. GOMEZ: In all due respect, I've never met Mr.  
7 Ford before. I've never heard this issue in my life before.

8 The document that he has in front of him, the  
9 document of Violence Management Program Concept Discussion,  
10 dated September 28th, 1989, I was Deputy County Executive of  
11 Santa Clara County at that time.

12 I've never seen the proposal, never heard of the  
13 proposal. I know nothing about the proposal.

14 CHAIRMAN ROBERTI: I think a problem that Mr. Gomez  
15 is confronting is that a lot of things have sort of brewed up  
16 prior to your assuming this position, and --

17 MR. GOMEZ: I've just never -- I mean, I'll be happy  
18 to review it. And I think we ought to give him a response.

19 CHAIRMAN ROBERTI: Why don't you re-submit it?

20 MR. GOMEZ: I'll be more than happy to.

21 MR. FORD: If I may answer.

22 SENATOR PETRIS: Excuse me.

23 I think he's concerned about some administrator  
24 telling him to get lost, and if he tries to go anywhere with  
25 this, he's going to be under adverse action.

26 MR. GOMEZ: Well, then that's inappropriate if it's  
27 happening.  
28





1 I'm more than happy to review this and give him a  
2 response in a month in terms of what we as a Department think.

3 CHAIRMAN ROBERTI: I certainly would recommend you do  
4 that.

5 If you have any problem with an administrator giving  
6 you trouble, let Mr. Gomez know, let us know. But I would  
7 suggest you re-submit it.

8 MR. FORD: In response to Mr. Gomez's statement, I  
9 was approached during the time that he was Chief Deputy  
10 Director. This problem -- and this proposal was put forward,  
11 and it was a sequential chain of command concept.

12 He might not remember it, but it was on his desk. I  
13 have references that show that, yes, he and Mamie Davis, as well  
14 as Bob Denninger, were the recipients.

15 MR. GOMEZ: And he may be right. It may have gone  
16 through my desk. A lot of things go through my desk.

17 I'll go back and take a look at it.

18 But I can only tell you the date that -- the only  
19 thing I saw in front of me is the date. I know I was not -- not  
20 in California -- in Sacramento.

21 CHAIRMAN ROBERTI: He will go through it, and I would  
22 suggest you re-submit it, too, in case they can't find it.

23 SENATOR PETRIS: Do you have any report from  
24 Australia? You mentioned they seemed to like it, or they used  
25 it?

26 MR. FORD: Yes. We can have a report sent up.

27 SENATOR PETRIS: It seems to me that that ought to be  
28



1 submitted so they can make a comparison. There might be some  
2 points there that might be helpful.

3 MR. FORD: The Australians were more than helpful in  
4 sending people up, presenting their reports and problems that  
5 they had, and suggestions that they've made. So, they've been  
6 here, and it was well received.

7 SENATOR PETRIS: By whom? By the prison people here?

8 MR. FORD: Right, the prison people, right.

9 SENATOR PETRIS: Well, all of that ought to be  
10 brought to Mr. Gomez's attention, I would think.

11 MR. FORD: Right.

12 SENATOR PETRIS: Thank you.

13 CHAIRMAN ROBERTI: Thank you.

14 Next is Mr. Robert Bales.

15 MR. BALES: Mr. Chairman, Members of the Committee,  
16 thank you for allowing me to --

17 CHAIRMAN ROBERTI: State your name.

18 MR. BALES: -- speak. My name is Robert or Bob  
19 Bales. I served the Department of Corrections for 33 and a half  
20 years as an employee. I retired yesterday. Ironically, today,  
21 April Fool's Day, is my first day of freedom.

22 I want to talk about a whistle blower situation that  
23 I became involved in last year that I have real concern about  
24 the way it was handled. I want to preface my remarks by saying  
25 that even though Mr. Gomez took the action that I'm about to  
26 describe, I'm not sure that the information he was provided was  
27 accurate and all of what it should have been.  
28



1           End of January of last year, I received a telephone  
2 call from a man named Louie Dentisi. Louie Dentisi was the head  
3 of the Special Services Unit at the time for the Department of  
4 Corrections. He told me that an associate warden at CIM -- I  
5 was the chief deputy warden at CIM at that time -- told me that  
6 an associate warden from CIM had called a deputy director named  
7 Dave Tristan and had told Dave Tristan that an audit or an  
8 investigation needed to be conducted of certain top managers at  
9 CIM institution. And he apparently was specific as to who some  
10 of the people were, and specific as to what they should look  
11 for.

12           When Dentisi called me, he asked two questions. He  
13 asked, number one, if I felt that such an investigation would  
14 indeed be appropriate; and number two, if such an investigation  
15 was conducted, would I cooperate.

16           I answered in the affirmative to both questions.

17           Mr. Dentisi told me that because of the sensitivity  
18 of the thing, and the fact that top managers were involved, he  
19 wanted to interview me, take a statement from me personally.  
20 And he asked me if I would prefer to fly to Sacramento to do  
21 that, or would I rather he fly down there. I told him that if  
22 it did not matter to him, I would prefer he come down there.

23           We agreed upon a time to meet, and I believe it was a  
24 Wednesday or a Thursday that we were speaking. We were supposed  
25 to meet the following Tuesday, and I told him that I would make  
26 arrangements to be off duty, away from the institution, on the  
27 day that we were going to meet and speak.





1           On that day, Mr. Dentisi did not show up. I didn't  
2 hear from him, and he didn't show up. I waited a couple of  
3 days, thinking he could contact me, and he did not.

4           So, I called his office to find out what had happened  
5 and was told that he no longer worked for the Department, that  
6 he had taken off on sick leave and was going to remain on sick  
7 leave, or vacation time, or something like that, for  
8 approximately five months until he retired in July.

9           So, I think there's some kind of an interesting  
10 story, maybe, behind that, but forget that for now.

11           Two Special Services agents did indeed come to the  
12 institution. They showed up. And they started looking at the  
13 areas that had been, you know, the information that had been  
14 provided. We're talking about some top managers.

15           It was ironic that one of the Special Services  
16 investigators was widely known as being a close personal friend  
17 of one of the top managers that was being investigated. And the  
18 other person, in my opinion, had very questionable credentials  
19 as an investigator.

20           Anyway, it was immediately apparent to me that they  
21 were going to try to minimize, or rationalize, whitewash the  
22 thing in every way that they could, but it's also my opinion  
23 that they were unable to do that, even though they tried to. I  
24 gave them some documents that I know were incriminating, and I  
25 know that they had to act on.

26           As a result of that investigation, and it lasted for  
27 a few months, based on my knowledge of what was going on at at  
28



1 the institution, I know three top managers should have been  
2 disciplined. Those three top managers that I know should have  
3 been disciplined, one was transferred into another position at  
4 the same level, and two were allowed to retire.

5 Now, the two people that provided evidence, and it  
6 happened to be myself and the associate warden that had  
7 originally called -- that was a man named Ron Keenan -- I was  
8 immediately removed from my position, demoted, and immediately  
9 reassigned to an institution at Wasco, which is approximately  
10 170-180 miles from where I live. No charge whatsoever was  
11 brought against me, and I'm confident that they do not have a  
12 charge against me, or any claim of incompetence, or malpractice,  
13 or anything else, to this day. I feel it was nothing but purely  
14 a retaliatory act.

15 The really, really sad thing, I guess, though, was  
16 with Keenan, the other fellow that provided information. His  
17 wife was undergoing treatment for cancer at the time this  
18 occurred, and she was going into Los Angeles two times a week  
19 for radiation treatment.

20 He was ordered to report to Madera, Madera. I think  
21 I said Wasco a while ago. I was ordered to report to Wasco, and  
22 he was ordered to report to Madera. This is Thursday, and I'm  
23 ordered to be in Wasco Monday morning.

24 Anyway, he was ordered immediately to Madera, and he  
25 moved up as he was instructed to do so, and his wife  
26 subsequently died. And that's, you know, not necessarily  
27 because of the move or what happened. It was probably  
28



1 inevitable anyway, but it just added a really sad climax to the  
2 whole incident.

3 I tell the story because I think it's pretty classic  
4 of the cold, callous, kind of conduct that I have witnessed on  
5 the part of the California Department of Corrections for 33 and  
6 a half years. And I went almost to the top of that Department.

7 CHAIRMAN ROBERTI: Thank you, Mr. Bales.

8 Mr. Gomez.

9 MR. GOMEZ: I've not seen the report he's alluding  
10 to. I made some management decisions regarding Chino, and it  
11 had nothing to do with it.

12 I terminated the top two CEA appointments. Those are  
13 called Career Executive Appointments, which serve at the  
14 pleasure of the Director. I terminated both the CEAs and had  
15 them reassigned to other facilities. I also transferred three  
16 other associate wardens within that facility, brought in an  
17 entirely new team to manage the facility.

18 And I'm comfortable with the decisions I made.

19 CHAIRMAN ROBERTI: Thank you.

20 I think we are going to break for five minutes.

21 [Thereupon a brief recess was taken.]

22 CHAIRMAN ROBERTI: The Committee will come to order.  
23 We have as our next witness Mr. Mike Corcoran.

24 MR. CORCORAN: Good evening, Committee Members,  
25 Mr. Gomez.

26 I work at Folsom Prison. I've been there six years.  
27 In 1990, Senator Robert Presley, Chairman of the  
28





1 Joint Legislative Committee on Prison Construction and  
2 Operations, commissioned an investigation of Folsom Prison which  
3 documented egregious wasteful practices in a number of areas,  
4 including inmate food, clothing, in-service training, adverse  
5 actions, utility usage, phone usage by inmates, inmate visits,  
6 et cetera.

7  
8 While the report focused only on Folsom Prison, the  
9 findings therein were applicable to all prison facilities in the  
10 state. More importantly, the report illustrated the dire need  
11 for a leader, a reformist Director who would take the lead in  
12 bringing about changes that would not only save the taxpayers  
13 money and bring future -- further professionals to the  
14 Department, while at the same time serving the public safety.

15 Mr. James Gomez has failed to meet his calling.

16 The following points are submitted as reasons why  
17 James Gomez should not be confirmed as the next Director for the  
18 Department of Corrections.

19 For a year now, he has not implemented any  
20 substantive [sic] changes in how the Department is run.  
21 Question, what changes has he made during the last year that can  
22 be categorized as substantive [sic] changes in the way the  
23 Department runs?

24 He has not brought with him any new cabinet  
25 administrators, but rather has retained and relied on the same  
26 group of administrators who ran the Department under the former  
27 Director Jim Rowland. Question, why has he retained the same  
28 crop of high level administrators who have been at the helm of



1 the Department's wasteful practices for so many years?

2 Under the guise of being very supportive of Senator  
3 Presley's efforts to reform the Department, he has authorized  
4 staff to oppose all the Senator's legislation aimed at righting  
5 -- ridding the Department of wasteful practices and bringing  
6 about professionalism. Question, why did his staff oppose each  
7 and every piece of legislation introduced in the reform package  
8 introduced by Senator Robert Presley last year?

9 The Senator's reform package would have: raised the  
10 standards for wardens and deputy wardens, SB 343; would have  
11 changed the current abuse in the state's civil service employee  
12 adverse actin process, SB 344; would have create a uniform  
13 office of Medical Services run by doctors, not wardens, SB 346;  
14 would have created an independent and coordinated office of  
15 Inspector General to investigate staff and administrator  
16 misconduct, SB 347; and would have created a coordinated and  
17 uniform program for inmate education, SB 345.

18 He has failed to take meaningful disciplinary action  
19 against wardens and upper eschelon staff that have obviously  
20 been derelict in exercising their duties, and has in fact  
21 systematically allowed everyone of them to pig out on future  
22 retirement benefits. Question, why is Warden Borg still missing  
23 -- or still managing Folsom Prison after the embarrassing  
24 investigation done by Senator Presley's office? Then he  
25 committed a felony by taking a gun on the prison's ground and  
26 received minor discipline. Is he being allowed to pig out on  
27 more retirements?  
28



1                   Why was Otis Thurman, former warden at CIM Chino,  
2 allowed to become warden of Lancaster all -- after all the  
3 misconduct that was alleged against him?  
4

5                   Why is the warden at R.J. Donovan under  
6 investigation?  
7

8                   More importantly, why hasn't James Gomez removed  
9 these wardens and others out of the system?  
10

11                   He has failed to make constructive changes in the  
12 area of management or in the operation of any prison. He has  
13 appointed some new people, but the same problems continue, i.e.,  
14 retaliation against staff, IDL NDL problems, continued inmate  
15 medical neglect.  
16

17                   Question, why has Mr. Gomez during the last year he  
18 has been in office to address these concerns -- what has he  
19 done?  
20

21                   In light of the above list of problems, whether  
22 perceived or actual, the only way to bring about change in the  
23 Department of Corrections is to appoint an outside person with  
24 proven administrative skills, and with the vision and gumption  
25 to bring about changes for the better.  
26

27                   Waste is obvious everywhere at Folsom Prison: waste  
28 of manpower, waste of supplies, waste of food, waste of  
utilities, waste of human potential in meaningless programs.  
Trying to go through the chain of command to correct any problem  
also have proven to be a complete waste. All that does is  
invite reprisals and character assassination.

                  Mr. Gomez would rather attack my character than deal





1 with any issues I may raise. That's why he's not fit for  
2 leadership. That's why, in 1989, I began supplying Senator  
3 Robert Presley's Joint Legislative Prisons Committee with  
4 reports and internal memoranda detailing waste.  
5

6 I'm the guy who exposed the fact that inmates were  
7 throwing away \$1,000 worth of clothing and linen each day. I  
8 the guy who blew the whistle on the dumping of the raw sewage in  
9 the American River, and that the food waste by the inmates was  
10 so prevalent, they were using slices of bread a napkins.

11 Mr. Gomez was Chief Deputy Director of the Department  
12 of Corrections at this time. He and other top managers all  
13 denied these reports and engaged in character assassination  
14 against me and the other officers who dared to speak out.

15 Senator Presley's Committee eventually produced this  
16 report in April, 1990, documenting the wasteful practices. What  
17 was the response at Folsom? You may recall that chief deputy  
18 warden Robert Briggs threatened a group of officers with  
19 discipline if any of them talked to the Legislators. And what  
20 the CDC response to that? They promoted Mr. Briggs to warden at  
21 Chuckawalla Valley State Prison.

22 You gentlemen on this Committee had good sense to  
23 refuse to confirm Warden Briggs, but he stayed on as chief  
24 deputy warden at Chuckawalla Valley, and Mr. Gomez has seen fit  
25 to keep him in that position.

26 I could talk to you all afternoon about waste and  
27 mismanagement in the prison system. Mr. Gomez has done  
28 absolutely nothing in the past to correct it.



1           But after hearing Mr. Gomez's testimony here last  
2 week, I have a more important matter to discuss. It is his  
3 complete failure to exercise moral leadership and enforce state  
4 and federal laws dealing in civil rights.

5           You heard Mr. Gomez say last week that it's going to  
6 take ten years to put an end to the problems of sexual  
7 harassment in the prison system. What he was telling women in  
8 Corrections is, they've got to put up with more crude comments,  
9 unwanted touching, and pandering for more -- for ten more years.  
10 Gentlemen, that shouldn't be allowed to go on for ten more  
11 minutes.

12           I work with many outstanding women, but they find  
13 themselves in a male-dominated, paramilitary system where the  
14 good old boys will tell any lie to protect each other's  
15 misconduct.

16           Senator Craven and Senator Beverly, I know that you  
17 both are ex-Marines. I'm also an ex-Marine. I spent seven  
18 years as an attack pilot. I know what it means to serve with  
19 the best. At Corrections, I learned what it means to serve with  
20 some of the worst.

21           Ex-Marines know that with proper leadership, all  
22 30,000 correctional employees could be told now, today, that  
23 sexual harassment is taboo. All Mr. Gomez has to do is give the  
24 order, and then fire every person who disobeys it. But  
25 Mr. Gomez won't do that. Instead, he tells women like Denise  
26 Chacon, who testified here last week, that the state will pay to  
27 move them. Those who have been harassing them can stay where  
28



1 they are.

2 I'd like Mr. Gomez to tell this Committee how many  
3 sexual harassment cases he's settled in the past year and for  
4 how many hundreds of thousands of dollars. I'd like to discuss  
5 just one of these cases.

6 This one cost the state \$165,000 in settlement costs,  
7 and hundreds of thousands more in legal fees, investigative and  
8 administrative time. It involved a Folsom captain, Joe  
9 Gonzales, and two women victims.

10 The investigative files are now open since they were  
11 filed at the State Personnel Board. The files reveal sordid,  
12 lurid behavior, misconduct at the chief deputy level, warden  
13 level, of the prison. I'll spare you many of the details and  
14 just say this. Captain Gonzales harassed one of the women for  
15 years. When she refused his sexual advances, he enlisted other  
16 commanders to make her life miserable and spread vicious rumors.  
17 He pay was taken away. Her benefits were disrupted, and a phone  
18 investigation was launched against her. Money was even taken  
19 out of her deferred compensation account, and Gonzales's EEO  
20 file came up missing from a locked safe.

21 But while all this was going on, Captain Gonzales and  
22 associate warden, Ted Zink, would sit in the Folsom cafeteria,  
23 day after day, making racial and sexual jokes about everyone who  
24 came and went. Warden Borg ignored the problem.

25 Captain Gonzales was finally tripped up when a female  
26 investigator from the Attorney General's Office was sent to  
27 interview him. This woman worked for Captain Gonzales's own  
28





1 state-provided defense team in a sexual harassment lawsuit.

2 Here's just one of the things Captain Gonzales did.  
3 He asked the investigator if she'd be interested in something  
4 round and brown and hard in his pocket.  
5

6 This woman was so upset, she went out on stress  
7 leave. Of course, the taxpayers were paying her salary while  
8 she was on leave.

9 Months and months later, Captain Gonzales was finally  
10 demoted to correctional officer, but not fired. He's been  
11 working at the Central Office at a made-up job for months now,  
12 but he's still living in subsidized housing on the Folsom Prison  
13 grounds.

14 But that's not all. There's a third woman mentioned  
15 prominently in the investigation files. Both Gonzales and now  
16 chief deputy warden were having sex with this woman. The  
17 records reveal that hiring practices were manipulated so that  
18 she could get hired by Corrections. They they were manipulated  
19 some more so she could be assigned to Folsom Prison. And they  
20 both continued to have sex with her, even though the deputy  
21 warden was married.

22 Remember that Mr. Gomez told you last week about not  
23 tolerating sleeping in the ranks. There are at least a dozen  
24 people who could be disciplined in this case, but no one has  
25 been disciplined by Captain Gonzales, and he still has a job. I  
26 bet even Captain Gonzales wouldn't have been disciplined if it  
27 weren't for the fact that Mr. Gomez was coming up for  
28 confirmation.



1           Of course, Mr. Gomez has reason to soft-peddle sexual  
2 harassment. His own boss has been found guilty of sexual  
3 harassment. I'm talking about Joe Sandoval, Secretary of Youth  
4 and Adult Correctional Agency. July, 1999 [sic], Joe Sandoval  
5 was found guilty of intentional sex discrimination by the State  
6 Personnel Board. The Board ordered that his victim be given  
7 \$30,000. Joe Sandoval petitioned for a rehearing, but he lost  
8 that one, too.

9           Governor --

10          CHAIRMAN ROBERTI: What does that have to do with  
11 Mr. Gomez, the Sandoval case?

12          MR. CORCORAN: Well, how is he going to do it if his  
13 own boss does it?

14          CHAIRMAN ROBERTI: I would hate for all the employees  
15 around here to be responsible for everything their bosses do.

16                               [Laughter.]

17          MR. CORCORAN: Well, somebody's got to be  
18 responsible.

19          The great State of California has a cabinet officer  
20 who's guilty of sex discrimination.

21          Finally, I'd like to say that you heard from Denise  
22 Chacon last week, and you're hearing from some more women today.  
23 I hope you appreciate how much courage it takes for them to be  
24 here. They are targets. A big bulls-eye has been painted on  
25 them.

26          I hope your Committee will keep in touch with these  
27 brave women and help them through -- help them when the arrows  
28



1 come flying, because as sure as I'm sitting here, somebody is  
2 going to try an intimidate them.

3         These people in Corrections, they act like managerial  
4 tyrants, and they abuse the workers. And people are telling  
5 other people time in and time out, and nothing's being done.  
6 They try to force performance out of people instead of inspiring  
7 them.

8         In tough economic times like this, we can't afford  
9 management styles that suppress and intimidate, and we've got  
10 them all over.

11         We have no role models. I can't think of one role  
12 model in the Department of Corrections. Funny, in the Marine  
13 Corps I saw thousands of them.

14         The morale is terrible. It's costing the state  
15 thousands of dollars. The sick leave is abused because people  
16 don't want to come to work.

17         I come to work because they gave me the job. I  
18 signed on.

19         I haven't seen any vision in the Department. I mean,  
20 everybody's talking about all the stuff, and nothing's been done  
21 even, and he's been there for a whole year. This -- it should  
22 have been done.

23         We have -- we need somebody like the Little Hoover  
24 Commission to come in here. I mean, this thing is serious, and  
25 nobody's listening to these people.

26         Sure, the big shots aren't going to say anything to  
27 you. It's the little people who are coming down here saying,  
28





1 "Hey, we've got problems. Big problems. We've got people  
2 trying to intimidate. They're covering stuff up. Stuff is  
3 getting stolen from the prison. The inmates are being screwed  
4 with."

5 Ethics, I kind of wanted to keep Senator Greene here  
6 the other day, because he could work on this. There's no  
7 standardization in the Department of Corrections. There's not  
8 even the same forms between Old Folsom and New Folsom. Not even  
9 the same forms. We need to have standardization.

10 And I -- it bothers me hearing these people talk  
11 about the chain of command when none of them have ever been in  
12 the military. I was hammered in that thing, and as a Marine  
13 officer, they hammered it in me, take care of my troops.

14 They talk about -- Mr. Gomez keeps talking about  
15 investigations, investigations. Corrections can't investigate  
16 itself. It's proven that out a thousand times over. It cannot  
17 investigate itself.

18 So, I'm against the confirmation, and don't think  
19 what -- that my thoughts are, you know, the only thoughts that  
20 come from Folsom Prison. There's plenty of people behind me.  
21 And as I left today, a guy called me over and said, "Hey, Mike,  
22 I really appreciate what you've been doing." And I had to tell  
23 my mom this morning that I work in a cess pool. I'm 47 years  
24 old, and I work in a cess pool. That's exactly what it is.

25 Thank you.

26 CHAIRMAN ROBERTI: Thank you, Mr. Corcoran.

27 Mr. Gomez.  
28



1 MR. GOMEZ: I fundamentally disagree with 90 percent  
2 of what he said, and I think character assassinated some people  
3 he has no business character assassinating.

4 I think he's taken partial facts and distorted them,  
5 and I'm not going to respond to any more than that, unless you  
6 Members have questions you'd like me to particularly respond to.

7 CHAIRMAN ROBERTI: Any questions? No questions.

8 Thank you, Mr. Corcoran.

9 Otila Vega.

10 SENATOR PETRIS: Well, maybe -- I did want a response  
11 to some of the specific things Mr. Corcoran alleged, but I don't  
12 remember now in detail. I thought you might have had some notes  
13 you could have gone down. Some of those you might be able to  
14 respond to, it seems to me.

15 MR. GOMEZ: Well, he listed about 50 of them very  
16 fast.

17 I can tell you that his issues on waste, he was right  
18 in some regard on some of the waste that was going on. And I  
19 think a lot of that has changed at Folsom.

20 I believe that on all the issues with Senator  
21 Presley, I just fundamentally disagree with him on all the  
22 bills. Senator Presley and I have discussed each and every one  
23 of those bills.

24 CHAIRMAN ROBERTI: As you recall, Senator Presley did  
25 come and testify in support of confirmation.

26 SENATOR PETRIS: Yes, I know.

27 CHAIRMAN ROBERTI: He didn't agree with any of the  
28



1 opposition that Mr. Gomez registered against his bills, but he  
2 did testify in support.

3 SENATOR PETRIS: Yes.

4 I wasn't focusing on the waste problem. Senator  
5 Boatwright did a lot of work on that, too. He's the one that  
6 told us about the steaks that were thrown away, and stuff like  
7 that, before Senator Presley got into it.

8 But the other stuff on personnel interests me.

9 MR. GOMEZ: Well, on the issue of -- if I say  
10 tomorrow, "Everybody stop sexual harassment," and I've said it,  
11 and I've reinforced it, it's not going to -- that's not enough.  
12 For him to say that all I have to do is say, "It stops  
13 tomorrow," it won't stop tomorrow. It's going to take some  
14 time.

15 It needs a commitment of thousands of people in the  
16 Department of Corrections.

17 I agree with him. I shouldn't -- it shouldn't be  
18 tolerated ten minutes more tomorrow. And when we find it, we  
19 won't tolerate it, and we should deal with it right then and  
20 there.

21 On the issues of some of the personnel he mentioned,  
22 he's obviously read some documents that have been filed with the  
23 State Personnel Board, but I don't believe, when he talked about  
24 some administrators sleeping, as an example of an issue, I did  
25 not find the same results in those documents that he found.

26 I can tell you that there have been investigations on  
27 different employees in the Department of Corrections. And when  
28





1 we -- when we believe we find something, we take action on it.

2  
3 There's an awful -- this Department in many instances  
4 runs an awful lot on rumor. If tomorrow, we investigate Sam  
5 Smith, 5,000 people are talking about Sam and what's being  
6 investigated, what isn't, and what's it going to -- what's going  
7 to come out of it.

8 Sam Smith has a right to confidentiality in that  
9 investigation, and if we find nothing, nothing happens. We  
10 don't go back out and rebroadcast to the world that we looked at  
11 the following 13 charges and found none of them -- none of them  
12 are true. It's inappropriate in the process that we have.

13 An awful lot of things in this Department go through  
14 that kind of a rumor mill from an investigation.

15 In terms of -- I mean, he believes that there  
16 shouldn't be programs for inmates. I met with Mr. Corcoran for  
17 an hour, hour and a half. That's a -- I think it was about six  
18 months ago, Mike? He came in and said he wanted to spend an  
19 hour with me. I set it up, and he came in and I met with him.

20 We philosophically discussed where he thinks the  
21 Department should go, and where I think the Department should  
22 go. We're not in a lot of agreement. We're not in a lot of  
23 agreement.

24 SENATOR PETRIS: What's his position?

25 MR. GOMEZ: He's a correctional officer at Folsom.  
26 He's one of 17,000 uniformed staff working the California prison  
27 system.

28 SENATOR PETRIS: Thank you.



1 CHAIRMAN ROBERTI: Ms. Vega.

2 MS. VEGA: My name is Otila Vega, and I've been  
3 employed for a total of eight years.  
4

5 And it makes me sick to come up here. It makes me  
6 sick to my stomach to sit here and listen to all of this lip  
7 service, because it's very cheap, and it's very easy to make  
8 promises.

9 Okay, there are a lot of women out here who have been  
10 here that have been sexually harassed. I'm one of them. I'm --  
11 as a result of my reporting sexual harassment, I was raped. I  
12 was set up to be raped by an inmate by a staff member. Nothing  
13 was ever done.

14 CHAIRMAN ROBERTI: When did this occur?

15 MS. VEGA: Right around '87, back in '87.

16 I reported it.

17 I had an incident with an MTA. I'm an x-ray tech,  
18 and I therefore work in a darkroom. And this MTA approached me.  
19 He fondled my breasts. I pushed him away and reported it to  
20 Nancy Robinson, who was the head of Nursing. She informed me  
21 that, "It's part of your job. Consider the source. He does it  
22 to everyone."

23 I don't believe that I can ask any of you, and I was  
24 a little offended when I heard somebody up here state that it's  
25 part of our job. It isn't part of our job. I'm not there to be  
26 fondled. I'm not there to be played with. Okay?

27 I reported it, and nothing was done. This same man  
28 that I reported for sexual harassment was later investigated by



1 Ms. Crawford. Seven other women reported, "Yes, this man has  
2 physically touched me. He has verbally assaulted me." Nothing  
3 was done.

4 Later on, this same gentleman took great pride in  
5 telling me that he had set me up for a rape.

6 SENATOR PETRIS: Was this in 1987?

7 MS. VEGA: [Nods in the affirmative.]

8 You can make all the promises that you want. You sit  
9 here and you can say it's going to taken ten years, but it will  
10 never take what you people have taken from me. It will never  
11 give that back to me.

12 If -- the Department of Corrections has made my life  
13 hell, and nobody, nobody has given a goddamn.

14 I'm good at what I do.

15 God forgive me, I'm sorry.

16 It's not a joke. We're not a piece of meat out  
17 there. I don't want any of you to sit up here and just leave  
18 and think that it's all just a joke, because it isn't.

19 I've lost a home because I reported this. I've lost  
20 my job. I've lost raises. I've been served with adverse  
21 action.

22 I have -- this is the only job in my entire history  
23 -- and I'm 41 years old -- where I have had to have an attorney  
24 that I'm paying for on a monthly basis to secure my job.

25 I went ahead, and I was fired for reasons that were  
26 so petty to cover their asses, okay? And you don't want to hear  
27 any of this because you've never heard any four-letter words.  
28





1 I live -- and it's my opinion that the Department of  
2 Corrections is one of the most corrupt departments and employers  
3 that I have ever, ever worked with. It's the biggest example of  
4 organized crime that I have ever lived through.

5 I've heard promises last time when I had adverse  
6 action that my case would be heard in nine months. A year and a  
7 half later, my case still hadn't been heard.

8 I won my case. And I want every one of you here to  
9 know that I'm a fighter. And you will not get me down, no  
10 matter what you do.

11 And I take pride in my work. And the reason, bottom  
12 line, that I received adverse action, that I was raped, was  
13 because I reported a lot of -- a lot of problems that we have in  
14 the Department.

15 You say that people don't sleep with people for  
16 favors. Well, they do, okay?

17 MR. GOMEZ: I didn't say that.

18 MS. VEGA: You say that you can't buy people off,  
19 well it's happening everyday.

20 I reported embezzlement. There was a nurse that was  
21 having sexual contact with one of the inmates that was HIV  
22 positive. For six months I reported this. Nothing was done  
23 until she was six months pregnant; then she was walked off.

24 I reported a man who was fondling me. They  
25 investigated. They found out that there was seven other women,  
26 and nothing was done to this man. During the course that this  
27 was happening to me, I found that he was picked up a total of  
28



1 three times for having sexual contact with his twelve year old  
2 daughter.

3 Now, we have inmates in our prison system who are  
4 locked up for having the same thing, for sexually having  
5 misconduct with children. And this MTA is making \$70,000 a  
6 year, being covered by our Medical Department.

7 The typical cover-up, myself, I was raped. He took  
8 pride in telling me he set me up. Seven other women testified.  
9 He has been picked up three times, four times, for having sexual  
10 misconduct with his own daughter and other children.

11 I went to Mr. Borg. I went to every administrator  
12 that I have worked under within the last eight years. And they  
13 told me no, there's nothing, because he has not been served. He  
14 hasn't served one day. "We can't do anything, Ms. Vega. I'm  
15 really sorry."

16 This is pathetic. It's sad that I worked my ass off.  
17 I'm the oldest out of seven, and I worked three jobs to go to  
18 school so that I could have a good job and take pride in working  
19 for the state. And I've lost everything.

20 And that these people, these boys that we all work  
21 for, are still living there in their beautiful homes, secure  
22 jobs.

23 Something has got to be done. I'm tired of just  
24 having promises and lip service.

25 And you're going to hear me out, and I'm not done  
26 yet.

27 I had to pay to get an attorney to win my case for  
28



1 something that I hadn't done, because there was a lot of medical  
2 malpractice, because there were wrongful deaths that I was  
3 present for. I saw inmates die because our medical staff didn't  
4 want to help them. I received adverse action because I gave CPR  
5 to an inmate because no other medical staff member wanted to  
6 touch him because, number one, he was Black, and he may have  
7 AIDS.

8 I saw my doctor with the defibrillators give this man  
9 third degree burns about his chest. When we arrived at the  
10 hospital, the emergency room doctor asked me how this man had  
11 been electrocuted.

12 Imagine working for a medical department that you're  
13 ashamed of.

14 And during this course, when this man who had fondled  
15 his daughter and other children, and had seven other women,  
16 still working there, okay? Is getting away with all of this.  
17 Has the audacity to refer to me as the whore of the Department.  
18 I was labeled the whore of the Department. I was the one that  
19 was supposedly, quote, according to Mr. MTA, I was fucking  
20 inmates in the darkroom.

21 I went through an investigation that Ms. Crawford  
22 went down and investigated us on. And she said that I was doing  
23 a good job because I was the only x-ray tech who was running two  
24 departments by herself. I replaced seven people.

25 When I went in, there were x-rays that had not been  
26 read. Imagine the liability. X-rays for nine months that had  
27 not been interpreted by a radiologist.  
28





1           When I went there, there were x-rays this high in the  
2 darkroom, that's probably half the size of this room, that I  
3 personally took to the radiologist for interpretation. There  
4 were tuberculosis cases. There was a case where a man had an  
5 ulcer that was the size of a quarter that had been paroled and  
6 had not been told that he had this problem.

7           And yet, I was the whore. I was labeled the whore of  
8 the Department. And I was the one that was being made fun of  
9 because I had reported this man, and the boys' club didn't like  
10 it.

11           I had an MTA throw stuff at my desk and call me a  
12 whore. "How can you do this? How can you say this about this  
13 poor man?"

14           I went to my administrators. I went to my chief  
15 medical officer, Dr. Vu. He labeled me as an idiot. "You're  
16 just a stupid Mexican woman."

17           And speaking of which, I don't have a guarantee,  
18 because you're Hispanic, and it made me sick to hear all these  
19 Hispanic people come in here and say this Hispanic man is going  
20 to help me.

21           I don't give a damn about your color. What I want  
22 is, I want action. I don't care if you're Black. I don't care  
23 if you're White. I don't care if you're Hispanic. Something's  
24 got to be done about these people because they're insidious.  
25 It's a malignancy.

26           And all of you better damn well listen.

27           And then, when they couldn't -- when none of this  
28



1 worked out -- I've been retarded; I've been a whore. Keep in  
2 mind that I've been raped during this period -- our chief  
3 medical officer wanted to reflect a really great budget for the  
4 year. The equipment that I was working with was 40 years old.  
5 Our repairman was found sleeping with his trousers undone,  
6 completely drunk, working on our equipment.  
7

8 I used the same equipment because I was being  
9 threatened with adverse action. "You get your ass back in  
10 there, or I'm going to serve you with adverse action." This is  
11 the language that I put up with from my chief medical officer.  
12 "You're a stupid woman. Get in there, or I'm going to fire  
13 you." And I wanted my job because it's important, otherwise I  
14 wouldn't be here today.

15 I used the machine. The machine blew up in my face.  
16 As a result, I now have permanent heart damage. I have a  
17 detached retina. I have back problems. I have TMJ because my  
18 face landed up against the wall.

19 But the budget reflected really well, and he was  
20 promoted.

21 During this time, I was wanting my raises, and I was  
22 denied every raise. I went to the administrator. I went to  
23 Wilcox. I went to Mr. Miller. "Mr. Miller, how can this be?  
24 I'm the only woman running two departments. I'm running my ass  
25 off, doing the best that I can do for you. This man hates me."

26 And I was told that he's Vietnamese, therefore in his  
27 culture it's okay to treat women like dirt.

28 In my culture, and I'm Hispanic, if you do my wife --



1 if I had a wife, if I were a male, and you treated my wife like  
2 that, it would be perfectly acceptable for me to come in just  
3 beat the holy hell out of you.

4 But there's a double standard there, isn't there?  
5 It was all right for this man to treat me like shit. It was all  
6 right for me to lose my home. It was all right for me to be  
7 raped. It was all right for me to be treated like dirt.

8 And after all of this, when they couldn't prove that  
9 I was fucking men in the darkroom, then all of a sudden, let's  
10 see what we can talk about.

11 During my State Personnel Board hearing, it was  
12 testified by staff members that I am now a lesbian. I'm the  
13 lesbian dyke. Here I am. I'm the token dyke.

14 Sexual harassment, what more do you need? Why don't  
15 you fire these people? Why isn't something done? If I'm not a  
16 whore, then I'm a lesbian dyke.

17 Why is it acceptable behavior for supervising nurses,  
18 why is it acceptable behavior for my chief medical officer, to  
19 refer to me as a lesbian dyke or a whore, or just a lazy, stupid  
20 Mexican, and get away with it?

21 It's not, and it shouldn't be, 'cause I have the  
22 right here. I should be able to work in a safe and happy  
23 environment. But I wasn't given that.

24 So, I was out of the Department. I borrowed money.  
25 I lost my home. I was out without any employment for the  
26 longest time. My family helped me.

27 I won my case. I supposed to be reinstated. I  
28





1 thought that everything was going to be rectified. I thought  
2 everything's going to be fine now. I won. These people will  
3 understand.

4 Let's top the cake with a little bit of icing here,  
5 okay? I contacted this man's office. I told him that I was  
6 supposed to be reinstated as of January. To date, I haven't  
7 received one paycheck. I called CRC. They promised me that my  
8 back pay is in the mail. Those are the lines that I used to  
9 use, my family, when we were poor and didn't have any money:  
10 the check's in the mail. I never expected that from the state.  
11 "Your check's in the mail, Ms. Vega. Everything's going to be  
12 fine. You've been reinstated."

13 When I was reinstated, everybody, from the  
14 administrator on down, said, "We didn't expect you back here.  
15 We don't want you back here. We've hired another person in your  
16 place."

17 That's fine. I understand, because we have inmates  
18 that need x-rays. They're entitled to proper medical care, and  
19 that is very important for me.

20 I take pride in my work. I report everything that I  
21 feel is a safety hazard. I collimate. I use lead shielding. I  
22 use the fastest time exposure that I can. If I see something  
23 wrong with an x-ray, because I've been in x-ray for 23 years, I  
24 bring it to the attention of the doctor.

25 I'm not obligated to do all these things, but I did  
26 it because I give a damn, because I take pride, because I wanted  
27 to make a difference, because I was proud of working for the  
28



1 Department.

2 So, I was reinstated. They didn't have a position,  
3 and they hired a woman who was illegally hired. In my job  
4 description, it mandates that you be a certified radiological  
5 tech. They hired a woman who is limited license.

6 This is very important. This woman has a permit.  
7 Not a license, but a permit, for chest. She's gone to school a  
8 total of nine months, compared to my four years. Anybody's four  
9 years if you're certified. She has a permit to do  
10 muscular-skeletal. She has a permit to do extremities.

11 This woman, with full knowledge of everybody at CRC  
12 is aware of this, has been taking x-rays of inmates' mandibles,  
13 or series -- skull series, anything to do with the head,  
14 illegally. Each one of those 60 inmates has a very good lawsuit  
15 against the Department of Corrections, against the x-ray tech,  
16 against its chief medical officer.

17 I reported this, and nobody -- nobody seems to give a  
18 damn about it. Nobody cares.

19 This is important to me. With my own money, I called  
20 Sacramento to our licensing board here. I spoke to  
21 Mr. Zemitis who was going to take care of this problem. She is  
22 still there. So, I'm going back.

23 They gave me the 3-11 shift. There wasn't any other  
24 x-ray tech anywhere in the Department of Corrections that works  
25 3-11 shift, or is assigned to work Saturday and Sunday. That  
26 was my assignment. My days off are Thursday and Friday. I was  
27 to work every weekend.  
28



1                   Consequently, I received adverse action because  
2 during the time that I was stressed out because of all of this  
3 that had happened to me, and it's understandable -- I don't  
4 think that any of you sitting here could have put up with what I  
5 have -- I went out on stress in April of '89 because I couldn't  
6 take it anymore. I was out for a month, and when I returned  
7 back to work, I had letter after letter from each doctor that I  
8 had seen returning me back to work with no restrictions.

9                   Finally I'm back to work. I need the money. I was  
10 really elated that I was going back to work.

11                   My chief medical officer, my associates, the warden,  
12 would not return me back to work. And for six months, from May  
13 until October, I went and I checked in, trying to go back to  
14 work. Those six months I lost out.

15                   This man's office is not authorizing the six months.  
16 CRC is not authorizing the six months. I did not receive any  
17 adverse action. I was there for five years, and received no  
18 adverse action; none whatsoever. I had letters of  
19 recommendation from Dr. Thornburn, my chief medical officer.

20                   Six months down the river, gone for nothing. I  
21 attempted to go back to work. Dr. Vu wouldn't let me go  
22 anywhere on the premises, so I lost the six months.

23                   Back to my reinstatement, okay? I wanted my six  
24 months back. Nobody is giving me those six months because  
25 Dr. Vu and Mr. Wilcox would tell the person at the office, at  
26 the gate, not to let me in. Playing games, but yet, they're  
27 supposed to be held accountable.  
28





1           Who's watching them? Who is watching these men who  
2 are in charge of my job, who are my supervisors? Where the hell  
3 are these people who are supposed to be in this chair right  
4 here, overseeing all these other wardens and associate wardens?  
5 Why can they play their little games and get away with it?

6           It shouldn't be happening but it is, and it's  
7 pathetic, and it's garbage. And something should really be  
8 done.

9           And I'm -- and I borrowed the money to fly up here  
10 today, because it's really important to me. Because all of you  
11 have to know that this isn't just a bunch of crap. We're not  
12 making this up. This is really happening.

13           So, now I'm working Saturdays and Sundays. I  
14 received adverse action because I was working Saturdays and  
15 Sundays, because it was interfering with my normal job.

16           The woman that replaced me is working somewhere else,  
17 moonlighting on Saturdays and Sundays. She doesn't possess the  
18 license, the minimum requirements. She's illegally x-raying  
19 inmates, who can turn around and sue each one of the people that  
20 is responsible for that.

21           It's my responsibility to report that, and therefore  
22 I have. But she hasn't received any adverse action.

23           So, I said, fine, Otila, you got your job back.  
24 Great. You're going to start working. You can start paying  
25 your parents back.

26           I went back to work. A week after I went back to  
27 work, an inmate walked who was assigned to Ms. Martinez. During  
28



1 the time that I worked, I didn't have three inmate workers  
2 assigned to my department. She has three. One of her inmates  
3 showed up, "Here I am. I'm helping you."

4 We're sitting. We do, maybe, two or three patients,  
5 and he informs me that Ms. Martinez -- and I believe it's  
6 over-familiarization -- has discussed in open forum with all  
7 three inmates that I had filed suit against the state, that I  
8 had large amounts of money that I had received as a settlement,  
9 and that I was going to file suit against even more people.

10 He wanted to know where I live. He wanted to know  
11 what my husband did for a living. He had personal information  
12 that should have never, ever been discussed between an inmate  
13 and a -- and a staff member about another staff member.

14 I reported this. The woman hasn't received any  
15 adverse action.

16 We went ahead and we worked throughout the course of  
17 the evening. I was supposed to leave at 11:00 o'clock in the  
18 evening.

19 Before he left, he informed me that there were drugs  
20 being trafficked. The Department was being used for traffic --  
21 for trafficking of drugs.

22 The following day was my day off. I tried to call.  
23 I couldn't get through to the 737 number because it's always  
24 busy. So I went ahead and I did whatever I had to do that day.

25 The following morning, I called and I contacted the  
26 watch officer, and I told him that I felt there was a breach of  
27 security. This inmate is telling me that they're selling drugs,  
28



1 and that they're selling syringes.

2           During this time that I'm telling you, that I'm  
3 relating to you, the nurse told me that there were 100 syringes  
4 that were missing from our medical department. Syringes that  
5 are kept behind locks, okay? Inmates don't have keys to those  
6 locks. There's a door that they have to go through; there are  
7 cabinets that they have to go through; it's all secure. Yet,  
8 our inmates are -- are getting drugs from our medical staff  
9 somehow, from the Department, maybe not the staff.

10           So I'm reporting a breach of security. I contacted  
11 -- because it's my job, I contacted the watch office. I  
12 contacted one nurse. I told them to keep it a secret until I  
13 returned the following day, because it was a breach of security,  
14 and that I would follow-up with the report.

15           February 14th was Valentine's Day. It was my day  
16 off. It went to work on the 15th. I showed up.

17           Now prior to this, my chief medical officer, Dr.  
18 Covington, told me that I would not have any inmate workers at  
19 night. When he walked in and he saw that this inmate was there,  
20 "You can't have any inmate workers." So I said, "Fine. I'll  
21 work by myself."

22           He walks in, and they've got 25 inmates that are  
23 scheduled between, maybe, 6:00 o'clock and 8:00 o'clock.

24           I proceeded to go ahead and do the first four  
25 patients. Each patient that I did had had a chest x-ray as  
26 recent as the day before.

27           This woman who is running the x-ray department should  
28





1 know whether or not she's done this patient, just because the  
2 face looks familiar, or this patient. Four inmates had been  
3 exposed to radiation unnecessarily because she wasn't doing her  
4 job.

5 I was livid. I really was. So I asked him, I said,  
6 "Tell me something. Why are you here? I want to know why  
7 you're here? Why are you scheduling these patients? Are you  
8 really -- you're selling drugs here? You're bringing these  
9 people down from the different units under the pretense that  
10 they're having x-rays done, and I'm x-raying them?" I don't --  
11 it really upset me, that I am x-raying patients unnecessarily  
12 because these people are playing games.

13 So then he said, "I'm here because I want to show you  
14 something. Come into the darkroom with me."

15 So we walk into the darkroom, and the darkroom has a  
16 regular door and then a sliding door. So I opened the door and  
17 the slider. The door is opened about like this. I walked into  
18 the far room, on the counter top, and I said, "I want -- right  
19 now, I want to see all of their x-ray jackets. I want to see  
20 the reports, and I want to see which x-rays were taken of all of  
21 these inmates, every last one of them."

22 I was facing him, as I'm facing you. The man walked  
23 towards me, and he said, "You're a fucking snitch. Ms. Martinez  
24 told us that you had reported that there -- that the drugs are  
25 being sold here, and I'm going to shut your fucking mouth."

26 And he preceded to reach forward, and when he reached  
27 forward to punch me, I moved, and he grabbed my lab jacket. And  
28



1 when he grabbed my lab jacket, I dropped to the floor, and I  
2 pivoted, and I ran because I was scared.

3 What I'm telling you is that there's a possibility  
4 that there was a conspiracy to murder me, to shut me up once  
5 again.

6 They took a report. The inmate was immediately  
7 transferred. I was sent home early because I was stressed out  
8 again. And in running through the door, I ran with my left side  
9 and hit my left hip. I thought that I had broken my left foot.

10 There wasn't anybody there because, of course, they  
11 had put me on the evening shift, and of course, I didn't have  
12 any immediate supervisor because my supervisor was at home with  
13 his family. Saturday and Sunday, nobody else works.

14 I didn't have a beeper, because nobody took the time  
15 to tell me that I'm supposed to wear a beeper. Nobody had even  
16 taken me through orientation. Just put me here to hide me.

17 CHAIRMAN ROBERTI: Ms. Vega, we're going to break for  
18 five minutes, and then we'll resume. We'll give you a few more  
19 minutes after that, and then we will hear from Ms. Berger, and  
20 then conclude with comments.

21 So, we will break for five minutes.

22 [Thereupon a brief recess was taken.]

23 CHAIRMAN ROBERTI: The Committee will reconvene.

24 Ms. Vega, you were testifying.

25 MS. VEGA: I just wanted to say a few more things, if  
26 I could.

27 The MTA that was responsible for everything that had  
28



1 happened to me, the majority of the stuff that happened to me,  
2 has since been caught, allegedly in a sexual -- sexual act while  
3 he was at work with a female inmate, and has been released.  
4 He's been fired. He's no longer there.

5 The supervising nurse, the Black supervising nurse  
6 that told me that I should, quote again, if I were to fuck a  
7 Black man, that I would be a straight woman; that I wouldn't be  
8 a lesbian, is still working there.

9 Supervising nurses who testified at my State  
10 Personnel Board hearing both stated that I was a lesbian dyke.  
11 They made fun of my being a lesbian dyke. They made fun of my  
12 being a whore. They're still there.

13 And I think if anybody should receive an adverse  
14 action for being unprofessional, it should be my supervising  
15 staff members. It should start from the chief medical officer  
16 all the way down.

17 And it's very frustrating, when you're finally really  
18 happy, and you go to college, and you want to get a responsible  
19 job, something that's going to take you somewhere with the time.  
20 And right now, I am a state employee, and I'm on industrial  
21 leave, yet I feel as if I'm unemployed.

22 I contacted CRC, because I have blood pressure,  
23 because I have a heart problem, because I have a problem with  
24 ulcers. And to date, I don't even have health coverage. And  
25 that is disheartening to me.

26 And I'm not coming here because I want everybody  
27 fired, but I just want you to be aware that these things are  
28





1 occurring, and that they should never occur again.

2 SENATOR PETRIS: Why don't you have health coverage?

3 MS. VEGA: Because I haven't -- interestingly enough,  
4 when I contacted CRC last week, and I worked at the California  
5 Rehabilitation Center in Norco, I was told that I had not  
6 officially been reinstated. Therefore, if I have not been  
7 officially reinstated, they were saying in essence to me that  
8 they have allowed a private citizen on prison grounds who was  
9 assaulted with every effort to -- to kill me. And that's why I  
10 don't have any health benefits, because I have not been  
11 reinstated officially.

12 SENATOR PETRIS: What does it take to make it  
13 official, other than the finding of the court?

14 MS. VEGA: The court finding was sent out in January,  
15 and I was supposed to have been fully reinstated to my old  
16 position.

17 And I thought when I reported on the 28th, that I was  
18 back to work. And I was not allowed to return back to work  
19 until the 10th.

20 And when I went on the 10th, and I did my patient  
21 load, I felt that I was reinstated. But I was told by the  
22 Personnel Department that I have not been officially reinstated.

23 SENATOR PETRIS: The 10th of which month?

24 MS. VEGA: February.

25 Yesterday I called, because I needed money. They  
26 told me that the check was in the mail still, you know, and that  
27 I still haven't been reinstated. I have no -- no health  
28



1 benefits as of date today.

2           It's just really sad that you get somebody -- and I  
3 am good at what I do, and I take pride. And as I mentioned  
4 before, I'm the oldest out of seven, and we didn't have  
5 anything. And I worked really hard. And it's sad that you get  
6 people who really want these jobs, and they're really gung-ho,  
7 and for some unknown reason, because you people are unaware of  
8 what's happening, we're outcasts, and we're trouble-makers, and  
9 we're getting adverse actions.

10           I hadn't received adverse action for five years.  
11 I've been there eight years. I never had received any adverse  
12 action at all. I haven't had any problems until this man  
13 touched my breasts in the darkroom, and the nursing supervisor  
14 informed me that it as okay for him to do because, after all, he  
15 does it to everyone.

16           CHAIRMAN ROBERTI: Ms. Vega, I want you to know that  
17 we on this Committee have heard more years, over a period of  
18 time, more years of testimony as far as the Department of  
19 Corrections than we choose to recount.

20           We have in the past rejected appointees over  
21 harassment cases.

22           The issue before us here is Mr. Gomez's  
23 qualifications.

24           Your case histories are very, very serious, and I  
25 think it's something that we have to hear. I wish all the  
26 Members of the Legislature could hear what you have to say,  
27 because it just, frankly, reinforces what we know to be a  
28



1 terrible situation that is extant at the Department.

2  
3 However, of all the people that I have heard -- we've  
4 heard numbers of them, probably more in Corrections than any  
5 other area -- after hearing the testimony, and we still have  
6 another witness to hear, the one who's actually evidenced the  
7 most sensitivity in this area that something has to be done --  
8 and I'm not saying he's made every correct decision, because I'm  
9 sure he hasn't -- is Mr. Gomez.

10 MS. VEGA: I contacted Mr. Gomez's office, and I  
11 haven't received a letter. He's had three letters from my  
12 attorney asking for my money, asking me to be reinstated. I  
13 still haven't received any letters from his office. I haven't  
14 received any phone calls, and that's why -- I'm here because I  
15 need money. I'm here because I want my job back.

16 CHAIRMAN ROBERTI: We understand that.

17 MS. VEGA: I want a good job, a good environment to  
18 work in. And I'm here because, if he is going to be assigned to  
19 this job, then he has to be made aware of what's happening.

20 I don't know whether he's good or not. I don't know  
21 anything about this man.

22 If he takes the job and he wants it, and everybody is  
23 saying that he's taking a drop of \$30,000. You know what?  
24 \$30,000 is more than I've ever made with the Department of  
25 Corrections. Working like a dog for less than what he's given  
26 up. To him, it's small change, \$30,000?

27 CHAIRMAN ROBERTI: No, I don't think he said it's  
28 small change, no.





1                   SENATOR PETRIS: You said you aren't here to get  
2 people fired, but it seems to me if these things have happened,  
3 and I have no reason to believe they haven't, there ought to be  
4 an awful lot of people getting fired. That whole damn medical  
5 staff ought to be fired, starting with the medical officer, if  
6 that's the way they are conducting themselves.

7                   MS. VEGA: I think we need --

8                   SENATOR PETRIS: I think we --

9                   MS. VEGA: -- to clean the department.

10                  SENATOR PETRIS: Pardon me?

11                  MS. VEGA: I believe that you should clean out our  
12 medical department. Unfortunately, and it's my opinion, we have  
13 a -- a nursing supervisor who has been there for years and years  
14 and years. And she is the one who is running the department.

15                  SENATOR PETRIS: Is she the one who told you that's  
16 part of your job?

17                  MS. VEGA: Yes, and she's also the one that --

18                  SENATOR PETRIS: Is it part of her job?

19                  MS. VEGA: Pardon?

20                  SENATOR PETRIS: Is it part of her job, too?

21                  MS. VEGA: I don't -- I don't know whether --

22                  SENATOR PETRIS: Do they treat her the same way?

23                  MS. VEGA: I don't know. I don't know if she's been  
24 fondled. I don't know if she's being sexually harassed. I  
25 don't know. I haven't really discussed it with her.

26                  SENATOR PETRIS: Well, it's interesting that a woman  
27 in the same shop that you're in would make a statement like  
28



1 that. I find that most --

2 MS. VEGA: I think --

3 SENATOR PETRIS: -- distressing.

4 MS. VEGA: -- it's really sad. Uh-huh, I agree with  
5 you.

6 CHAIRMAN ROBERTI: Do you have anything further?

7 MS. VEGA: I want to thank all of you for hearing me  
8 out.

9 CHAIRMAN ROBERTI: Thank you for coming. It's some  
10 testimony that we and Mr. Gomez should hear.

11 MS. VEGA: Thank you.

12 CHAIRMAN ROBERTI: I have one last witness, and that  
13 is Ms. Anita Berger.

14 Mr. Gomez, you can respond in your conclusion, after  
15 Ms. Berger.

16 MS. BERGER: Thank you for having me here, and I'm  
17 sure you all want to go home. I missed my plane.

18 But she said she has not had any -- any adverse  
19 action.

20 CHAIRMAN ROBERTI: Please identify yourself.

21 MS. BERGER: Anita Berger.

22 CHAIRMAN ROBERTI: Do you have a position, or did  
23 you have a position?

24 MS. BERGER: No, I've been fired since 1989.

25 CHAIRMAN ROBERTI: From the Department of  
26 Corrections, and what was your position there?

27 MS. BERGER: X-ray tech II, only at CIM.  
28



1           And I guess I started in 1980 or 1981. I have to  
2 look it up. I'm trying to forget that place.

3           But in 1983 -- yeah, it was in 1980, because in 1983,  
4 I did bring some complaints to Mr. Borg.

5           Now, you're talking about sexual harassment. I  
6 didn't have sexual harassment, but it was a different type of  
7 harassment.

8           And when I brought it to Mr. Borg, the next thing I  
9 know, Dr. Sigurdson, who was the chief medical officer, was  
10 having me walked out for paranoid disorder. So, took me a year  
11 to get back.

12           Now, I was also working at Riverside General. When I  
13 went over there, I told the supervisor, I said, "Look what they  
14 did." She said, "Oh, good." Walked me over to the calendar.  
15 She said, "Can you work this, this, this?" I worked the whole  
16 year.

17           So, I'm a responsible person, but I -- the Department  
18 of Corrections said I'm mentally ill, okay, because I brought  
19 these problems forth.

20           When -- when the girls were talking about Folsom, and  
21 Borg there, I said, oh, hey, that goes way back. A woman  
22 complains, and this is what he does; okay?

23           In 1984, I came back, and everything I complained  
24 about came true. The whole -- like Otila said about her  
25 department, it was in disarray, mine was in disarray. There  
26 were undeveloped films for about ten months that had never even  
27 been developed. They were green in the boxes. And I was told  
28





1 to stamp the reports negative. I said, "Stamp them negative?  
2 They haven't even been read. They haven't even been developed."

3 So, I called Radiologic Health, because I had been  
4 instructed you will do as you are told by Mr. Jim Green, the  
5 Health Services administrator.

6 So, I went ahead and called Radiologic Health, told  
7 them what was happening.

8 To make a long story short, there was an  
9 investigation, and my co-worker was -- the senior tech -- was  
10 terminated.

11 So, the next year, I'm working all by myself,  
12 cleaning up the mess. I don't mean the back room where they  
13 were all thrown, but I'm cleaning up the department. And I  
14 didn't just work eight hours. I worked sixteen hours. I was  
15 there 'til after 12:00. My house looked a mess because I was  
16 cleaning that place up, and people said, "You are crazy for  
17 doing this."

18 Nobody told me to go home. I'm working eight hours  
19 past my time and not getting overpay [sic] -- overtime. I may  
20 have gotten two hours.

21 But Jim Green and the -- you're talking about a  
22 medical staff. Jim Green and his drinking crowd from the  
23 Department, which would take two and a half hour lunch hours --  
24 at 4:00 o'clock they went out and left again, 'cause they had to  
25 go for their -- for their drinking meetings. And several things  
26 happened to some of the people in that crowd because they'd been  
27 drinking. We won't go into that. But it was well-known that he  
28



1 had the drinking crowd.  
2

3 I cleaned this department up. And in the meantime,  
4 Otila got a job -- was over working at CRC. She came over to  
5 get some films, and then I find out -- and also, after I had the  
6 department all cleaned up after a year, they didn't give me the  
7 senior position, which was open. They said I couldn't have it.  
8 And they interviewed everyone, and then finally they said -- I  
9 said, "You know, this isn't fair, 'cause you terminated me and I  
10 couldn't get on the list."

11 But I went ahead and played their game. And after  
12 they -- after they were terminate -- I was terminated, like I  
13 say, after I cleaned up the department, Jim Green calls her over  
14 and offers her the senior position. She asked why they weren't  
15 giving it to me.

16 And then I find out that he's bad mouthing me. He --  
17 she wasn't even a state employee, and during the interview in  
18 '83, when she interviewed for my job, and also for the senior  
19 position, Jim Green says, "She's -- she's crazy. She's nutso."

20 Now, in 1983, I found out that during the interview,  
21 and while I was terminated and trying to get my job back, at the  
22 end of the interview, Jim Green told her there was more to it.  
23 She did something with an inmate.

24 And I'm not going to go into a big spiel, because I  
25 have a history of adverse action in -- you know, I was a target.  
26 And just like she said, Nancy Robertson, I had vicious nurses in  
27 the department, too. They wanted to get along and be in the  
28 favor of the men, so it was -- it was game.



1           And Jim Green had a lot of fun out of antagonizing  
2 me. And one time I walked into his office. I went to get some  
3 mail, and I heard them all laughing about me and what they were  
4 going to do. And I got a formal reprimand. They gave me a  
5 formal reprimand on a secret file. Things that I didn't even  
6 know about. And when I tried to answer it, they said it didn't  
7 matter. But I got the formal reprimand.

8           The -- Judge Showers, who's now dead, was at my  
9 hearing, and he said this is a whistle blowing. This is a  
10 whistle blowing case.

11           Okay, then I get another adverse action from Nurse  
12 Shalone on a Post Office incident.

13           Now, I want to ask all of you, how would you feel for  
14 -- Mr. Gomez? How would you feel for a little seven year old  
15 child to come into the prison hospital, spend the day with  
16 mommy? And there is maximum security inmates there. They're  
17 carried in -- they're walking through in chains, and they're  
18 talking filthy talk. And mommy -- he got to spend the day with  
19 mommy, and do you know why? Because he did so well at  
20 testifying against Anita Berger.

21           I met Nurse Shalone at the Post Office, and when I  
22 saw her, I thought, "Oh, my God." What I really thought was,  
23 "Oh, s-h," you know? And I was going, that's her. So, I was  
24 going to go on, but then I saw she left. And the only parking  
25 place right there, otherwise I'd have to go where she was, the  
26 handicapped parking. I never have parked in the handicapped  
27 parking, but I ran -- I went in there and I parked.





1           And I went into the -- I jumped out to go in there,  
2 and somebody grabbed the door behind me. It was Nurse Shalone.  
3 She made some personable -- personal remarks.

4           Now, she, Jim Green, and these nurses were telling  
5 new employees that I was crazy, and I was nutso, and I was  
6 schizo.

7           So, she made a personal remark to me about my head  
8 problem, and I just looked at her. I said, "Hey." And I  
9 couldn't sleep, either, because of the harassment they gave me.  
10 And a couple of times I had to call in about that, because I  
11 said I haven't had any sleep all night.

12           And she said, "I sleep well." And I just looked  
13 at her, and I said, "I don't drink." And I mailed my letter. I  
14 came out, and she's standing out there with her little boy,  
15 yelling, "You. I'm going to call this -- I'm going to call the  
16 -- I'm going to call my lawyer. Yeah, I'm going to sue you."

17           And I just opened my door and looked at her, I said,  
18 "Didn't you and Ms. Buston refuse -- didn't you and Buston  
19 refuse a breathalyzer test?" 'Cause on their two and a half  
20 hour lunch hours, they got into an accident.

21           And the word was all over the place that the Chino  
22 Police Department said they refused a breathalyzer test. And I  
23 understand, and Warden -- and Thurman was going to get after it.  
24 But somehow, somebody told him to stop it.

25           So, he was never -- they were never given any action  
26 against it, but I was given adverse action because I put in for  
27 the senior position, and the next thing I hear is that Nurse --  
28



1 I was told to report for an investigative inquiry into  
2 allegations of -- I became physical with Nurse Shalone. And I  
3 said, "Bull shit."

4 So, the union rep called the chief medical officer,  
5 Thorburn, I think her name was at that time. Anyways, he called  
6 her, and said, "What's the matter?" And they said Ms. Shalone  
7 had made a police report. There's a police report.

8 I called the police station. They said there is no  
9 police report. I went over there. They said no, there's no  
10 police report. I says, well, and then I'm supposed to go for an  
11 investigative inquiry.

12 The bottom line was, Nurse Shalone said -- she had  
13 written it up that I had caused this big scene at the Post  
14 Office.

15 Is anyone listening to me, or is everyone talking?

16 CHAIRMAN ROBERTI: We're listening.

17 MS. BERGER: Everybody's talking to somebody. Am I  
18 just talking to you?

19 MR. GOMEZ: I think you're talking to everybody.

20 MS. BERGER: Well, so, anyways, I got a 30-working  
21 days suspension out of that. And I could say was, "Hey, I got a  
22 vacation out of that dump." I got a 30-days away from that  
23 place, and someplace else was glad to have me for the thirty  
24 days.

25 But I came back because I always thought, hey,  
26 there's somebody's going to listen to what's going on here.  
27 Nobody every did.



1           The end result was, I was -- I was fired by lies from  
2 Mr. Thurman, by --

3           SENATOR PETRIS: Let me ask a question.

4           MS. BERGER: -- by set-ups, and by the whole works.

5           SENATOR PETRIS: During all this time that you're  
6 describing, did you ever have any meetings with Mr. Gomez to  
7 complain about all this stuff?

8           MS. BERGER: No. He was the deputy warden, no. No,  
9 you have to go through the chain of command.

10          SENATOR PETRIS: I understand that. Did he --

11          MS. BERGER: I tell you who I did call, and I called  
12 several times, was Mr. Denninger, because he's the one that  
13 signs the adverse action. And when I got the recommendation --

14          SENATOR PETRIS: What was his position?

15          MS. BERGER: He signed -- he --

16          SENATOR PETRIS: Was he a deputy --

17          MR. GOMEZ: He was Deputy Director of Institutions at  
18 that time.

19          MS. BERGER: Yeah. His name is on all the adverse  
20 action.

21                When I got this report that -- and I had to go  
22 through an investigative inquiry, they said there was a police  
23 report. There was never a police report. In fact, I bugged the  
24 Chino P.D. so much that the lieutenant said, "Give me that."

25                Here's a copy of the police report. And the  
26 lieutenant said -- wrote, "NRD", and circled it, meaning No  
27 Report Desired.  
28





1           The Chino Police -- the policeman that took the  
2 report -- two days after Shalone saw me at the Post Office, she  
3 went over to -- she went to see Jim Green, or told him about it.  
4 And they wrote a letter that, I mean, this crazy woman was at  
5 the Post Office, that there was a -- that there was a big scene.  
6 People from inside the Post Office came, and it drew a crowd.  
7 And I was screaming at her that she drinks. And I shouldered  
8 her, wouldn't let her in the Post Office, wouldn't let her out.

9           The only time I saw her was at the door.

10           So, it was, you know, just a big story, but it didn't  
11 matter, because it was upheld.

12           I even took it outside to Superior Court. I took it  
13 all the way to the State Supreme Court. I took it to the  
14 Appellate Court, and I lost. Because the state system is --  
15 when he was talking about management, what about us rank and  
16 file? And what about Otila?

17           In the whole system, there -- the -- it isn't an  
18 x-ray tech that is the supervisor of the department. It's  
19 either an MTA; it's a nurse; it's anybody down the hall. And I  
20 don't mean just in CDC. This goes on in the state hospitals.  
21 Nobody knows. They're doing our evaluations, and they don't  
22 even know what they're doing, other than you either fit in; we  
23 either like you, or we don't like you. I mean, that's the ship-  
24 shoddiest dump.

25           I'm going to have to watch it, too, that I don't, you  
26 know, get over reactive here. I mean, this -- that place is a  
27 dump. That is the worst place I've ever worked in.



1           And when people say I'm crazy, I say, "Yeah, you  
2 know, I was. I kept going back." I kept going back. That's  
3 where I was crazy, because nothing ever changed.  
4

5           Anything -- and in fact, they enjoy doing it to you.  
6 When they -- when they were -- when they had that secret file, I  
7 was putting some mail outside of Jim Green's office, and quite a  
8 few of the people who were -- who had signed those secret files,  
9 which were lies or twisted facts, were in there laughing. And I  
10 just -- I stood in front of his door, and then they looked up.  
11 And Jim Green saw me, and he gave me a big grin. And I told to  
12 myself, you bastard, you know?

13           But it didn't matter, because I'm the one has rude  
14 and disrespectful treatment of other employees.

15           Now, what I questioned in the Director's rules, which  
16 they use against you. It didn't matter how good a job you do,  
17 the Director's rules -- and I called Mr. Denninger about this.  
18 I called Showers. I called several people in the state. I  
19 finally wrote a letter to Senator Cranston. He never answered  
20 it.

21           And then when I called and said, "All right, why  
22 aren't you answering this?" They said, "Well, take it to your  
23 state Senator."

24           I've gone into his office. You know, I've talked --  
25 I've talked once to you, but I've gone in there. I've gone to  
26 Ayala's office, and nobody cares. I said, well, forget it.

27           But what I question was, no -- there are no  
28 guidelines to the Director's rules which would infringe on our



1 civil rights and our freedom of speech.

2 I would say, even if it was true that I had said  
3 those things, don't I have a right, even at the Post Office,  
4 even if it was true. It was 5:30. I was off work. Shalone  
5 confronted me. I got the adverse action.

6 To me, that place is -- not only is it a dump, but  
7 you got crazy people working there. And what I was going -- I  
8 was going to a doctor because I wanted to know -- it was almost  
9 like, hey, why don't you start an Alanon group for employees who  
10 have to -- or rank and file who have to put up with abusive or  
11 what I consider alcoholic supervisors? Why not start one?

12 And all I'm doing is trying to cope with them. And  
13 finally I thought -- I knew I was on my way out.

14 Now, what I'm really concerned about here --

15 CHAIRMAN ROBERTI: We'll have to give you just a  
16 couple more minutes.

17 MS. BERGER: Okay.

18 CHAIRMAN ROBERTI: We do have to wind up.

19 MS. BERGER: Okay.

20 Dr. Sigurdson, the chief medical officer -- and I'm  
21 sure you're fully aware of that, that he was -- he had umpteen  
22 -- a whole bunch of complaints where he was molesting the  
23 inmates.

24 Now, when you have a Harold Anderson, you know,  
25 charged and put in this -- you know, when you've got these  
26 charges against him, I'm saying, and a lot of people are saying,  
27 what can -- how can you do that to this man when Dr. Sigurdson  
28





1 was allowed to resign. And the only reason he even resigned was  
2 because I went to Mr. Thurman and told him that people are  
3 pretty -- pretty upset because he's still around here. And Dr.  
4 -- and Thurman told me, "Well, we're having a problem pinning  
5 him down." I said, "You had no problem pinning me down and  
6 walking me out of here and doing all you did."

7  
8 So, Thurman said, "Give -- come into my office. Make  
9 an appointment."

10 I was in there by 10:00 o'clock. And I found out --  
11 anyways, we had a discussion. I said, "You know, all the rotten  
12 things that you've done to me, I haven't thrown it up in your  
13 face." And Thurman said, "Yeah, we appreciate that."

14 But as I was -- as the meeting was over, he assured  
15 me that Mr. -- that Dr. Sigurdson was going to be out that day.  
16 And I -- and I stopped, and I said, "I want to tell you  
17 something." It was on a Friday. I said, "I'll come into work  
18 Monday, and that man is still here, I drive through those gates  
19 right to the newspapers."

20 I didn't care if Thurman fired me then or walked me  
21 out, because it was inevitable. They were so rotten to me, it  
22 was just a matter of time.

23 And this man -- the allegations were, and many of  
24 them, because I fed all the information into Presley's office,  
25 and you can read that in one of these letters.

26 SENATOR BEVERLY: You keep pointing at me. I'm not  
27 Senator Presley.

28 MS. BERGER: You're Beverly?



1                   Where is Presley?

2                                 [Laughter.]

3                   CHAIRMAN ROBERTI: He's not on the Committee.

4                   MS. BERGER: You know something? You know, when he  
5 walked in, I thought, God, he looked different.

6                                 [Laughter.]

7                   CHAIRMAN ROBERTI: Senator Presley's getting older.

8                                 [Laughter.]

9                   CHAIRMAN ROBERTI: I'm sorry, I didn't mean that.

10                  MS. BERGER: Okay, okay, okay. We had our laugh, you  
11 know, and it's good. I laugh, too. It's good to loosen up.

12                  But, you know, why is that this man, who's molesting  
13 the inmates, and everybody knows it. The doctors know it. And,  
14 you know, it's going to come out in my lawsuit.

15                  The man was stripping the inmates of their clothes  
16 and checking -- and doing a psych evaluation on their penis.

17                  Okay, I was the one that fed the information into  
18 Presley's office, and that's how he eventually lost his license.  
19 Because I also -- and everybody gave me the information,  
20 including the doctors, because they were afraid of losing their  
21 job. And I figured, hey, I'm going anyways. And I did; I was  
22 gone.

23                  Now, you know, why do that to Anderson? I mean, this  
24 was really crappy.

25                  And as far as any -- as far as the word goes, hey, he  
26 was set up for that rape, too. I mean, he's doing the same  
27 thing that a lot of our Presidential candidates are doing.  
28



1 [Laughter.]

2 CHAIRMAN ROBERTI: Are alleged to be doing.

3 [Laughter.]

4 MS. BERGER: Are alleged, okay?

5 I mean, there's more prostitutes out there that are  
6 working besides working the streets.

7 And maybe I'm talking out of turn, but --

8 CHAIRMAN ROBERTI: We appreciated your testimony,  
9 Ms. Berger. We want to give Mr. Gomez a chance to respond to  
10 the last witness who testified.

11 MS. BERGER: We're friends, but I don't want to work  
12 for your crummy Department.

13 But maybe he can answer about --

14 CHAIRMAN ROBERTI: I'm sure he will address your  
15 points and Ms. Vega's points as well, and an overall conclusion.

16 MS. BERGER: See, what I came in here for, I came in  
17 here to attack him. I don't mean sexually or physically, but I  
18 came in to attack him as to -- he wrote me this letter. In  
19 fact, I called his office, and I said, "I don't want that air  
20 head." I said, "You tell ," I told his secretary, I says, "You  
21 tell that air head never to write me a letter like that again."

22 CHAIRMAN ROBERTI: This is the most memorable hearing  
23 in eleven years of Rules Committee hearings. I think we now  
24 have the most memorable one.

25 [Laughter.]

26 CHAIRMAN ROBERTI: Mr. Gomez, you get to conclude.  
27 Thank you, Ms. Berger.  
28





1 MS. BERGER: Okay.

2 MR. GOMEZ: I wish Ms. Berger well.

3 I -- regarding Ms. Vega, she had some serious issues  
4 that I feel I need to address.

5 Ms. Vega was -- was terminated from the Department in  
6 October of '89. She appealed that termination, and the State  
7 Personnel Board, on January 21st, 1992, withdrew that dismissal  
8 and modified it to an 18-month suspension.

9 At that point in time, she's asked to reinstate with  
10 the Department.

11 When she makes this -- when she makes the statements  
12 that the other technician had a limited license, she made that  
13 statement also in a letter to me through her attorney, and we  
14 have investigated that. She's right on that charge. And that  
15 individual no longer is performing those duties, and her point  
16 is 100 percent correct.

17 On the issue of back pay --

18 SENATOR PETRIS: May I ask a question on that?

19 MR. GOMEZ: Yes, you may.

20 SENATOR PETRIS: How can a person like that, with all  
21 the competition that we hear about, and the clamor for work, how  
22 does she get in there in the first place if she doesn't even  
23 have the qualifications? She's putting people's lives at risk  
24 from overdose of radiation, and so on and so forth.

25 MR. GOMEZ: Somebody clearly made a mistake. I -- I  
26 just have found out the information this morning, but clearly,  
27 somebody allowed her with a limited license, and from the  
28



1 information I have, she has a limited license. She doesn't have  
2 the ability to do cranials, like Ms. Vega testified to. That  
3 she had -- that she should not have been performing those  
4 duties.

5 I will check into that.

6 SENATOR PETRIS: I'd like to know who made the  
7 mistake. It seems like a very serious one, not just some  
8 clerical error or oversight.

9 MR. GOMEZ: I agree with you.

10 I can tell you, recruiting medical personnel in the  
11 Department of Corrections has not been easy. It is very  
12 difficult to retain medical personnel because of pay and working  
13 conditions both.

14 On Ms. Vega's issue on back pay, I believe she's  
15 right on the majority of her issue. We -- I am led to believe  
16 by my staff that a check has been issued for back pay to July 1  
17 of 1991 forward, which is about, I believe, seven months of back  
18 pay.

19 There is a difference of agreement on two other  
20 months of back pay which has not been issued, and that's  
21 currently being worked on.

22 SENATOR PETRIS: Is that in the mail? I mean, is  
23 that check en route?

24 MR. GOMEZ: Let me turn to my staff who gave me the  
25 information.

26 CHAIRMAN ROBERTI: Ms. Vega, do you want to come  
27 forward on this one point only.  
28



1 MR. GOMEZ: She has it coming. I was told that it  
2 is, that they had processed that pay check, but they have not.  
3 She has it coming.

4 MS. VEGA: What I would like to know --

5 SENATOR PETRIS: Sounds like another delay to me.

6 MS. VEGA: What I'm interested in also in the six  
7 months, from the time that I returned to work and was allowed to  
8 return to work because they just didn't want me there.

9 MR. GOMEZ: I think there's -- that's a different --  
10 I'll get to that issue, but I think it's a different issue.

11 And the attorneys, and according to what we see in  
12 the State Personnel Board settlement, she does have a back pay  
13 going back to the point in which she had rights to come back to  
14 the job. That would start the day after 18 months. So, if you  
15 were off for two and a half years, and then the Personnel Board  
16 says 18-month suspension, then on the 18th month and first day,  
17 at that point in time, she's entitled, I believe, to back pay.

18 And that's -- we'll check that.

19 Her attorney wrote me, and she did make a comment  
20 that I had not responded to one of her letters.

21 By the way, she originally was terminated when I was  
22 in Santa Clara County. I was not in the Department at that  
23 time.

24 Her issue regarding the responsiveness, we did  
25 respond to her attorney, and I'll show -- I'll see the letter at  
26 this point from Robert Thompson. He was her attorney. Mr.  
27 Thompson wrote me on February 19th, 1992 and asked for a series  
28





1 of things to happen in their concern.

2 We wrote back March 20th, 1992, and responded to each  
3 issue. Since that point in time, I received another letter just  
4 two days -- March 23rd, received in our office on March 27th.

5 But the issue of back pay, I believe that she is  
6 entitled to it. You have to put it in perspective. The State  
7 Personnel Board ruling was on January 21st of 1992. But we've  
8 taken longer than we should have, and we will expedite her check  
9 to her immediately on the back pay.

10 On the issue of drug selling, first I've ever heard  
11 of it. I will check into that, and if need be, conduct an  
12 investigation.

13 She also had her allegation regarding inmate assault.  
14 An investigation is being done on that allegation, the inmate  
15 assault that she talked about. The inmate was removed. Anytime  
16 there is an inmate assault allegation, we remove the inmate from  
17 the area so there's no retribution. We are investigating that  
18 assault.

19 On the issue of health coverage --

20 SENATOR PETRIS: Excuse me.

21 On that, there's also the allegation that that was  
22 set up by an officer who apparently is still around and bragging  
23 about it.

24 MR. GOMEZ: I didn't think she said an officer.

25 MS. VEGA: The assault allegedly was set up by Ms.  
26 Martinez.

27 MR. GOMEZ: We're investigating that, and we'll give  
28



1 you a copy --

2 SENATOR PETRIS: You're aware of that?

3 MR. GOMEZ: Yes. If she authorizes it, we'll give  
4 you a copy of the investigation. I believe we can do that very  
5 routinely.

6 I think that the issue of health coverage, the best  
7 information I have was that she returned to work on February  
8 10th, 1992. And she was placed on the shift she talked about at  
9 that point in time, which was a different shift when she was the  
10 3-11 shift that she spoke to.

11 And she did not get AR-40. What AR-40 is, if you  
12 work with an inmate helper, you get a bonus of 10 percent, or an  
13 increase of 10 percent. The shift she went onto, she didn't get  
14 AR-40.

15 Her attorney wrote to us in his letter and said we  
16 believe that she should get AR-40 because when she was  
17 previously an employee, she had AR-40.

18 And on February 17th, she was placed back into that  
19 shift and provided AR-40 at that point in time.

20 The inmate -- so, she came back on February 10th.  
21 The issue on the 15th is when she reported the incident to us  
22 regarding the inmate's -- the inmate assault.

23 The issue of the rape, first time I've heard of that  
24 at all. It's not in any of the files. Nancy gave me the  
25 information yesterday that she would be testifying. The issue  
26 on the rape, I have no information whatsoever on, and would be  
27 more than happy to sit down with the employee and have staff  
28



1 take a look at that issue. But that is not something that's in  
2 any of the files that I have. And I'll have the personnel files  
3 that I had an opportunity to look at last night.

4 MS. VEGA: I spent a total of a month being  
5 interrogated as a result of that -- that rape. In fact, when I  
6 was being interrogated, I was being made the criminal rather  
7 than the victim.

8 MR. GOMEZ: Was it done at the local level?

9 MS. VEGA: It was done at CRC. I requested that  
10 Sacramento investigate.

11 MR. GOMEZ: I only had the files that were available  
12 to me last night that I went through.

13 I can tell you, welcome back to the Department.  
14 Welcome back to her job, and the issue of the employee that was  
15 taking her place, we had -- we went two years. We had to fill  
16 that job. You can't not let the job be not filled.

17 MS. VEGA: Excuse me, but there are CRTs full  
18 diagnostic x-ray techs out on the street looking for a job.

19 MR. GOMEZ: And we should have hired one.

20 MS. VEGA: And the reason that she was hired was  
21 because there's nepotism there because her sister gave her the  
22 job.

23 MR. GOMEZ: Well, I had not heard that. This is the  
24 first that you mentioned of it.

25 And that's what I have to say about Ms. Vega. I will  
26 ensure that her check is issued tomorrow or the next day.

27 SENATOR PETRIS: May I ask her a question?  
28





1 CHAIRMAN ROBERTI: Yes, Senator Petris.

2 SENATOR PETRIS: I forgot to earlier.

3 You heard Mr. Nova testify in support. Isn't it  
4 Nova, the President of the --

5 CHAIRMAN ROBERTI: Nava.

6 SENATOR PETRIS: Nava.

7 Did you bring any of this to his attention at any  
8 time?

9 MS. VEGA: Pertaining to the rape and all the  
10 problems that I've had?

11 SENATOR PETRIS: Yes.

12 MS. VEGA: I didn't speak to him directly. I -- the  
13 institution was made aware of it. The EOC was made aware of it.  
14 At one point I was a member of the Hispanic Association. They  
15 were made aware of it pretty much.

16 SENATOR PETRIS: Did that association --

17 MS. VEGA: They did nothing.

18 SENATOR PETRIS: -- do anything about it?

19 MS. VEGA: Nothing at all.

20 SENATOR PETRIS: What about your employee  
21 organization?

22 MS. VEGA: Nothing.

23 SENATOR PETRIS: Did you ask them for help?

24 MS. VEGA: Uh-huh. I asked for help from everyone,  
25 requested --

26 SENATOR PETRIS: What reason did they give you for  
27 not doing anything?  
28



1 MS. VEGA: They didn't give me any reason at all.  
2 They just dropped out.

3 In fact, I was also a member of CSEA, who was my  
4 union, and they dropped me. They refused to represent me. They  
5 wanted me to go ahead and resign. And I told them that I felt  
6 that this was adverse action that was just given to me to cover  
7 up.

8 And it was attorney Kleinman, Anita was present, and  
9 he flat out refused to represent me. So, I had to go out and  
10 secure my own attorney, Robert Thompson.

11 CHAIRMAN ROBERTI: Thank you, Ms. Vega.

12 MR. GOMEZ: In summary --

13 MS. VEGA: Some of the letters that my attorney has  
14 sent --

15 MR. GOMEZ: Yes, I've seen the letters he's sent, and  
16 I have send some in response.

17 MS. VEGA: All three of them?

18 MR. GOMEZ: Yes, I have all three of them in the  
19 package.

20 MS. VEGA: Thank you.

21 There is one other thing.

22 On this last letter, it states that I'm never to  
23 x-ray a female inmate or a female staff member unless I have a  
24 female staff member present.

25 I'm the only female or the only x-ray tech who has  
26 ever received a letter like this. And I really take offense  
27 when I'm a state employee, and I've worked as an x-ray tech for  
28



1 23 years in some of the better university centers, and I have to  
2 be supervised whenever I have a female staff member or a female  
3 inmate.

4 I've never received any adverse action for sexual  
5 misconduct.

6 MR. GOMEZ: I understand, and I have two other  
7 letters which I'll be happy to share with you.

8 Our staff clarified that. They believe it was your  
9 request.

10 MS. VEGA: It wasn't my request.

11 MR. GOMEZ: There are two letters that have gone out  
12 since then I'll be happy to share with you.

13 MS. VEGA: Well, I think that the reason they're  
14 doing that is because they're covering their behinds on it.

15 I don't need somebody -- in fact, it's against the  
16 law for me to have another individual in the room while I'm  
17 x-raying because of the amount of radiation exposure.

18 MR. GOMEZ: There is some disagreement between you  
19 and the staff.

20 MS. VEGA: But I would never do that because it's  
21 against the law to x-ray individuals.

22 MR. GOMEZ: Let me summarize for the Committee.

23 I have a tremendous challenge in front of me. I  
24 believe that I'm a hard working, dedicated individual who's  
25 going to approach this job with 110 percent. I believe I have  
26 the kind of caring, the kind of commitment, and the capability  
27 to lead this Department.  
28





1           These hearings are difficult. They're difficult on  
2 both Senate Rules, they're difficult on the individuals  
3 testifying, and they're difficult on the Department. And  
4 they're difficult on the Department because you see -- you see  
5 one picture here today.

6           And if I leave you with nothing else, I want to leave  
7 you with a picture that there are some employees that are not  
8 happy. You've seen some of them. There are some employees that  
9 have problems, and you've seen some of those.

10           But there're an awful lot of hard-working, good men  
11 and women in the Department of Corrections that I represent in  
12 addition to representing some of these other employees. And you  
13 need, regardless of what you do, to know there's a dedicated,  
14 hard-working group of people out there that are working hard  
15 every single day, 24 hours a day.

16           We have problems. You've heard some of them today,  
17 and we have others. We have budget problems. We have pay  
18 problems. We have sexual harassment problems. We have respect  
19 of people problems.

20           But there still are an awful lot of dedicated staff  
21 out there that are working, and I just want to ensure for the  
22 Committee that, although we're in need of change, we're in need  
23 of improvement, that I don't want the whole Department to be  
24 painted with a brush that deals with my confirmation or not  
25 being confirmed.

26           I think I have the honesty and the integrity to  
27 handle this challenge. The reason I came back to the Department  
28



1 of Corrections is because I think it's the most challenging job  
2 in state government. The most challenging job in state  
3 government, and I think I have the capacity and capability to  
4 deal with that challenge.

5 As I've said, the process itself, you need to know,  
6 I'm not a fan of the process. But what I am a fan of is Nancy  
7 Michel and Ken Hurdle. Regardless of what you do, they've  
8 treated me fairly, honestly, with integrity. They have called  
9 me and kept me apprised of every issue. And no matter what this  
10 Committee does, I owe a debt of gratitude to them, because  
11 they've been fair with me. And you can ask for no more.

12 Thank you.

13 CHAIRMAN ROBERTI: Thank you, Mr. Gomez. We  
14 appreciate your words.

15 When the motion is made, I intend to vote for your  
16 confirmation, but you know, probably more than the Members of  
17 this Committee, that there are problems.

18 I can't tell you how it amazes me that after I don't  
19 know how many years we've heard Corrections appointments, and it  
20 still seems that the appointment process to these people is  
21 their only opportunity to vent this real anger at the working  
22 conditions that they're forced to endure. In a state department  
23 that seems to be growing out of necessity, that this continues  
24 is -- something must be done.

25 You said last week at a press meet, if you had  
26 anything else that you were going to do, you wanted to reform  
27 the Department, and to make this change. So, we're going to  
28



1 hold you to that. I was impressed that you said you wanted to  
2 make that your legacy.

3 Much of what we have heard involves cases that  
4 occurred before you took over, and even when you took over, the  
5 Department is enormous. I don't know, I guess as far as numbers  
6 of people, I don't know if you're the largest, but you're one of  
7 the largest.

8 MR. GOMEZ: We're twice as large as any other  
9 department.

10 CHAIRMAN ROBERTI: So, it is impossible for you to  
11 hear every one of these cases individually, but from the  
12 testimony, frankly, you've tried.

13 And I know there are an enormous number of  
14 hard-working people in a very, very difficult job. One that  
15 nobody -- jobs, ones that are as difficult as any in the State  
16 of California.

17 But we just don't choose, the next time we hear a  
18 warden appointment, or whatever, to hear this litany of abuse  
19 one more time.

20 So, we're counting on you. It's more than a prayer.  
21 We're going to use every avenue we have to help enforce cleaning  
22 up the Department of Corrections' problems. And we know that  
23 there are innumerable numbers of people who do their job and  
24 aren't party to this, but it's a real problem. And we intend to  
25 oversight and to supervise.

26 And we think in you, there is a leader who can do  
27 something. At least that's how I feel.  
28





1 Senator Petris.

2 SENATOR PETRIS: I'm concerned about retaliation. We  
3 went through this before in prior Folsom hearings. And it  
4 normally doesn't come from the top. It comes from the same good  
5 old boys that are creating the problems in the first place.

6 So, I want to emphasize, I don't want to see any  
7 retaliation against any of these witnesses.

8 MR. GOMEZ: I concur.

9 SENATOR PETRIS: I'd like you to put the word out,  
10 because if there is, I personally intend to haul every one of  
11 them into this Committee and give an accounting to us, in  
12 addition to having whatever other proper action is necessary.

13 MR. GOMEZ: I would like to -- in response to that --

14 SENATOR PETRIS: And you talk about hard-working  
15 people, and I'd like to believe that the overwhelming majority  
16 are the way you describe, and I think they are.

17 But the institution gets a bad name. You know, we've  
18 had a few bad apples in the Legislature, and we're all paying  
19 the price now, very dearly, as a matter of fact.

20 So, I don't know what method you can use, but I think  
21 that people who are in that shop and are working with Ms. Vega  
22 or are her supervisors and so forth ought to be told tomorrow  
23 that they better not give her a bad time.

24 I think she's a very dedicated worker, too, and  
25 should be included in that overall category.

26 People have to know that when things get that bad,  
27 they should be able to blow the whistle. It takes enormous  
28



1 courage, as you pointed out two or three times, for a person to  
2 come here and publicly criticize the conditions that exist there  
3 and individuals, and I think they need to be protected.

4 MR. GOMEZ: I understand.

5 I FAXed Nancy a copy of the letter that I sent the  
6 day after Ms. Chacon testified. I think that was last  
7 Wednesday. And that was a fairly difficult testimony. I think  
8 we would all agree. And I FAXed a letter to Nancy that I sent  
9 that morning to the warden, asking him to meet with every  
10 sergeant, every lieutenant, and the captain, at that  
11 institution, and to make sure. And I sent Nancy a copy of that  
12 letter, just to know that I understand that that kind of thing  
13 can take place.

14 And they have met with every warden, every sergeant,  
15 every lieutenant.

16 That's not to say that Ms. Chacon is not without  
17 fault, because she is. She's a hard person to get along with.  
18 She doesn't treat other people with respect.

19 But, we have an obligation as an employer to treat  
20 her with respect.

21 That's not to say that Ms. Vega does not also have  
22 some problems. She was terminated from state service, and the  
23 State Personnel Board upheld that as an 18-month suspension.  
24 So, she also has an obligation on the other side of that coin  
25 for her to behave in an appropriate fashion when she goes back.

26 And I will do exactly as you ask. I think it's  
27 appropriate.  
28



1 I don't think anyone that comes to this hearing to  
2 testify, either for or against, or with concerns, should have  
3 anything other than the walk back to their job tomorrow. This  
4 was their day to say what they wanted to say.

5 That's how I feel.

6 CHAIRMAN ROBERTI: I'm sorry, Ms. Berger, but at some  
7 point we have to bring it to a conclusion. We have more  
8 business.

9 Senator Mello.

10 SENATOR MELLO: Mr. Chairman, thank you.

11 Just reminded me really of the confirmation hearings  
12 that we had for the warden out at Folsom back a few years ago,  
13 only I think even more serious.

14 We've heard a lot of these ugly incidents, as we've  
15 heard. And you've committed yourself to stop them and not let  
16 them happen anymore. Because I think the testimony here was --  
17 I believe the testimony that these persons made here about their  
18 harassment and attacks.

19 There's another part of the prison, I think, that we  
20 fail to get into here, and that is, what is the mission of our  
21 Corrections system? Are we going to be happy with 105,000  
22 people in our Corrections system? With a 70 percent recidivism  
23 rate? Revolving door, back and forth? In so short a space that  
24 we're taking away space used for classrooms, education programs,  
25 arts programs, and we're just warehousing prisoners.

26 Now, I have Soledad, CTF, in my district, which I go  
27 there quite often when they invite me. And one of my staff is  
28





1 on the Friends Outside group and attends the very frequent  
2 meetings down there.

3 And this is what I think Mr. Gomez would offer, with  
4 my knowledge of him over the years when he was with the  
5 Department in the under-secretary position and now, and that is,  
6 we cannot continue to just build more prisons and have people  
7 just come and continue to go back to prison, committing  
8 additional crimes.

9 I think the programs that I've seen are successful.  
10 They're providing a college degree or equivalent. It's being  
11 done in many of our institutions for those who can be part of  
12 that. It's sponsored by San Jose State down at Soledad and  
13 Hartnell. The recidivism rate drops from 70 percent down to  
14 about 10.

15 The other education programs that were there, many of  
16 them have gone away because of space, also trains people to get  
17 back into society and jobs. There are some correction programs  
18 that has worked throughout the whole system. Recidivism rates  
19 drops to 25 percent.

20 These are the things I think that are important,  
21 because I, for one, do not want to continue building more  
22 prisons, and not have meaningful programs there just so that  
23 people can have a chance to do on the outside.

24 I sent -- I gave Mr. Gomez a copy, because I was  
25 distressed with the cutbacks made at Soledad, where the decision  
26 was made by the warden, who I have a lot of respect for, but I  
27 don't know, if you're the overall Director of the Department, I  
28



1 think when we have to make cuts, philosophy of the Department  
2 should prevail, not what an individual prison may want to do.

3         Now, what they did in Soledad, they cut the two paint  
4 and fender auto body loose, did not meet the air quality  
5 standards, so they closed them down. Laid off everybody for a  
6 few hundred thousand dollars. But we could have, with their  
7 budget, I would have rather seen these programs continue on.  
8 Offer vocational training.

9         You need paint shops and body shops, and these  
10 persons that learn that trade there can go on the outside and  
11 find that.

12         The same thing is happening -- so what do they do?  
13 They cut back on education, when I think I would rather see them  
14 cut back, and this is my own opinion, in other areas. And that,  
15 I think, is the philosophy that should made throughout the  
16 entire state, and not allow the individuals to make it at these  
17 prisons.

18         So, by and large, as I said, the testimony here was  
19 just shocking. And people had great courage to come here in  
20 tears and say their stories.

21         But, you know, from this, I think we can build and go  
22 back into what I hope will be a new vision in our Department of  
23 Corrections, making it truly one of rehabilitation, vocational  
24 training, education. And those that can be rehabilitated, I  
25 think we should do it. It's going to save us a lot of money and  
26 put people back into society.

27         And I think Mr. Gomez offers that philosophy that  
28



1 will be proven out to benefit the entire State of California.

2 Thank you, Mr. Chairman.

3 CHAIRMAN ROBERTI: Thank you, Senator.

4 Do I hear a motion?

5 SENATOR BEVERLY: Move approval of the nomination.

6 CHAIRMAN ROBERTI: Senator Beverly moves the  
7 confirmation be recommended do pass to the full Senate of James  
8 Gomez, Director of the Department of Corrections.

9 Secretary will call the roll.

10 SECRETARY WEBB: Senator Beverly.

11 SENATOR BEVERLY: Aye.

12 SECRETARY WEBB: Beverly Aye.

13 Senator Mello.

14 SENATOR MELLO: Aye.

15 SECRETARY WEBB: Mello Aye.

16 Senator Petris.

17 SENATOR PETRIS: Aye.

18 SECRETARY WEBB: Petris Aye.

19 Senator Craven. Senator Roberti.

20 CHAIRMAN ROBERTI: Aye.

21 SECRETARY WEBB: Roberti Aye.

22 CHAIRMAN ROBERTI: The vote is four to zero;  
23 confirmation is recommended to the Floor.

24 MR. GOMEZ: Thank you.

25 CHAIRMAN ROBERTI: You're welcome.

26 [Thereupon this portion of the  
27 Senate Rules Committee hearing  
28 was terminated at approximately  
7:40 P.M.]





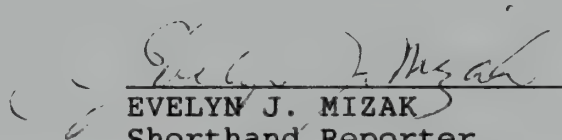
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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 6<sup>th</sup> day of April, 1992.

  
EVELYN J. MIZAK  
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